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Ontario: Royal commission inquiry into labour disputes

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v. 31.

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ROYAL COMMISSION
INQUIRY INTO LABOUR DISPUTES

5431

HEARINGS HELD AT

SUDBURY

VOL. NO.

31

DATE

May 1, 1967

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IN THE MATTER OF The Public
Inquiries Act, R.S.O. 1960,
Ch. 323.

- and -

IN THE MATTER OF an Inquiry
Into Labour Disputes

BEFORE:

The Honourable Ivan C. Rand,
Commissioner, at the District
of Sudbury Court House, Sudbury,
Ontario, on Monday, May 1st, 1967.

E. Marshall Pollock Counsel to the Commission

APPEARANCES:

Sudbury and District Labour Council

Mr. E. Gilchrist	)	President
Mr. T. Soden	)	Pres. of Local 6500 United Steelworkers
Mr. H. Sequin	)	Vice-Pres. Local 6500
Mr. G. Ingham	)	Sect. Treas. of Labour Council Of the CLC
Mr. A. Kube)	
Mr. D. Lebelle	)	The Carpenters and Joiners


The Algoma Steel Corporation Limited

Mr. D.A. Machum	)	Vice-Pres. of Personnel
Mr. O'Neill	)	Supt. of Employee Relations.
Mr. Wismer	)	Supt. of Construction
Mr. Carroll	)	Asst. Sect. of the Company
Mr. Brown	)	United Steelworkers of America, Local 5500

International Union of Mine Mill and Smelter Workers

Mr. K. Smith)	President
Mr. W. Hall)	Legislative Counsel.
Mr. J. Codd)	Private Individual

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*Nethercut & Young**Toronto, Ontario*Sudbury, Ontario,
Monday, May 1st, 1967.

1 ---On commencing at 10:00 a.m.

2
3 MR. POLLOCK: The Sudbury and District
4 Labour Council will please come forward.

5 Mr. E. Gilchrist?

6 MR. GILCHRIST: Yes, I have several
7 gentlemen with me, sir.

8 I am speaking on behalf of the Sudbury
9 and District Labour Council and I am the President
10 of that council and I have with me this morning Mr.
11 Tony Soden, President of Local 6500 of the United
12 Steelworkers; Mr. Homer Sequin, Vice-President of
13 Local 6500; Mr. George Ingham, Secretary-Treasurer
14 of the Labour Council; Mr. Art Kube of the CLC; and
15 Mr. Daniel Lebelle from the Carpenters and Joiners.

16 MR. POLLOCK: We haven't any written
17 submission in your behalf, so we are prepared to
18 listen to whatever you have to say, so please feel
19 free to take an informal and unofficial atmosphere.
20 We are interested in learning something.

21 MR. GILCHRIST: Thank you very kindly.
22 We are in the main supporting the Steelworkers'
23 brief that was presented to you about a week ago and
24 I think it adequately covers the problems of
25 negotiations and labour relations in general. In
26 addition to that, I have two brief points to make,
27 and then in the main we would like to deal with the
28 labour situation in Sudbury last summer.

29 The first item I would like to bring up
30 is the Hours of Work and Vacation With Pay Act that

1 causes a considerable amount of problems dealing with
2 workers in that the Act itself allows the company to
3 work eight hours a day and 48 hours a week, despite
4 the fact that we negotiate 40 hours a week clauses
5 in our agreements and sometimes less, and sometimes
6 negotiate them at great economic expense to our
7 members, despite that fact we find that they are
8 forced to work 48 hours per week and can and are
9 penalized for refusing to work that extra eight
10 hours every week.

11 And further, that the arbitrators
12 uphold management's rights to schedule more than
13 the number of hours agreed to in the contract. We
14 feel this is a detriment to the principle of
15 negotiations where we have something that is
16 negotiated taken away from us, and we feel that this
17 is no small factor in having a satisfactory work
18 force in the membership and we are unable to finalize
19 negotiations as far as the number of hours in the
20 week. We find that legislation takes away something
21 we have already negotiated for. This is one item
22 that we feel should be corrected in that where there
23 is a collective agreement in effect that should be
24 the hours of work and nothing over and above that
25 should be granted to anyone by legislation.

26 MR. POLLOCK: I suppose you would hold
27 that if a collective agreement provided for 60 hours
28 per week would you let them work 60 hours?

29 MR. GILCHRIST: No, we are talking
30 about minimums, we don't have any 60-hour weeks, I

1 assure you.

2
3 MR. POLLOCK: Do you get at the
4 premium rates for the other eight hours?

5 MR. GILCHRIST: Yes, premium rates,
6 and anything over 48 hours and 36 hours in some
7 unions that are represented by counsel.
8 We feel that the unfair part of it is that a lot of
9 arbitrators talk about residual rights of management
10 to schedule over and above the 40 hours a week which
11 is a violation of the contract on the basis of
12 legislation and certainly there should be some residual
13 rights of the employees when they negotiated the 40-
14 hour week, not to have it taken away from them
15 through the arbitration procedure and we argue still
16 that the Act itself allows the employer to work 48
17 hours, but doesn't clearly set out that the employee
18 is forced to work that number of hours. However,
19 the supreme authority as far as labour relations are
20 which
21 concerned/are the arbitrators, are taking the
22 position that that gives the employer the right to
23 schedule 48 hours or over, over the contractual
24 amount of hours up to 48.

25 MR. POLLOCK: There is nothing specific
26 in your collective agreement relating to the
27 scheduling of overtime over the 40 hours?

28 MR. GILCHRIST: In some contracts we
29 have it spelled out that overtime over the 40 hours or
30 forty-eight hours is on a voluntary basis.

MR. POLLOCK: So there is no difficulty
under those circumstances.

1
2 MR. GILCHIRST: No. As a matter of
3 fact, there isn't difficulty in having the people
4 work over the 40 hours in that case either, not as
5 much difficulty as there is where the companies are
6 forcing them to work over 40 hours on the basis of
7 the hours of work clause. There are less
8 problems where it is voluntary and no complaints from
9 management that they don't get the employees to work.
10 The second point is an unusual one and it arose
11 from an arbitration in the Sudbury area and I could
12 leave one of the arbitrations with you. This
13 involves a situation wherein our collective agreement
14 on the recall provisions that we say that a man must
15 be recalled by registered letter, and by saying that
16 we bring into the collective bargaining agreement
17 the responsibilities of the Post Office in this
18 individual case. This was a man that had worked at
19 INCO for a number of years and had been injured in
20 the summer of 1962 and was hospitalized in the
21 Workmen's Compensation Hospital that fall and at the
22 same time received his layoff notice from the company.
23 Approximately a year later when he received his
24 recall his recall letter went to the Workmen's
25 Compensation Hospital because that was his address
26 at the time he received his layoff. It was returned
27 to the Post Office at Copper Cliff here and was
28 consequently sent back to the company. There was an
29 arbitration on this case and, of course, ruled
30 against the employee for the simple reason that the
company had carried out their provisions of the

1 contract. The man, of course, lost his employment
2 and he lost his job because the Post Office had
3 failed to carry out the entire provision of the Post
4 Office Act. You see, on recall he has approximately
5 14 days to report. The registered letter instead of
6 coming back to the company should have continued to
7 follow the individual until he was found.

8 MR. POLLOCK: Did he give a forwarding
9 address from the Compensation Hospital?

10 MR. GILCHRIST: Oh, yes. As you note
11 in the arbitration award, he always lived in Copper
12 Cliff, within a stone's throw of the main office of
13 the company, and had continued to live after the
14 incident, but had merely given the Compensation
15 Hospital his address when he returned his
16 notice that he received on layoff. The reason that
17 we use the system of registered letters is that
18 when the difference between an ordinary letter and a
19 registered letter is that an ordinary letter will go
20 to an address and the post office has then completed
21 their responsibility. But a registered letter
22 goes to the individual, the name on the letter.

23 MR. POLLOCK: At that address?

24 MR. GILCHRIST: No, it follows that
25 name and if he is not at that address, then it must
26 attempt to follow him up to his new address. In
27 this case the letter was returned to the Copper Cliff
28 Post Office and instead of attempting to find the
29 man's address which had been there for eight or nine
30 years previous to that, they had returned the letter

1
2 to the company and, of course, there was a period of
3 six or seven days in there where that letter could
4 have attempted to follow him to his next address.
5 In any case, as a result of this he did lose his
6 employment and I point out to you that in labour
7 relations we do from time to time use the services
8 of government, and in this case as a result of that the
9 individual lost his employment with the company.
10 I make that point.

11 THE COMMISSIONER: What did the post
12 office have to say about this?

13 MR. GILCHRIST: I referred this to the
14 Postmaster General as far as getting compensation for
15 this man and he said that it was impossible because
16 it would involve the post office in almost continual
17 litigation.

18 THE COMMISSIONER: This is the first
19 case you have had in that respect?

20 MR. GILCHRIST: This is the only case
21 that I know of. I suppose being a small post office
22 and so close to such a large company that it almost
23 thinks like the company. I suppose that when you
24 return the letter there you know it is home. If the
25 letter had come to Sudbury, I am sure they would have
26 tried to get it on to his next address. For the last 12
27 years I have been working with miners in the mining
28 communities, mostly in the Elliot Lake area, working in
29 mining camps and working as a local union official as
30 a representative of the international union in later
years, and I have had a great deal of experience with

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1 wildcat strikes, as they are termed, and I would like
2 to mention a few of those as far as the reasons for
3 them are concerned. I think one of the basic problems
4 in our labour relations is that there is no arrangement
5 whereby a group of workers can work out a given
6 problem with management outside of this sort of an
7 action. These involve for many reasons and, of course,
8 if you are living in new mining camps the reasons
9 can vary from the type of meals that are served and
10 the schedules that they are served on, but in the
11 most part wildcat strikes have been caused by unsafe
12 working conditions, by the fact that in many cases
13 management returns light-duty employees to work in
14 the underground sections. Involved in this is the
15 enforcement of safety regulations in some cases such
16 as safety glasses, that have caused wildcat strikes.
17 For the most part they have been caused. . . .

18 MR. POLLOCK: Safety glasses, that means
19 making them wear safety glasses?

20 MR. GILCHRIST: Yes. In most cases
21 previous to that particular time there wouldn't
22 be a requirement to wear safety glasses, and this
23 safety regulation was enforced in such a way that
24 there was a reaction to it rather than in a long-
25 term educational program at that end. We have had
26 the use of the injunctions in the mining towns. The
27 one that comes to mind is in the spring of 1963.
28 The Stamrock Mine at Elliot Lake, where there was a
29 problem existing over a period of several weeks
30 concerned with bonus earnings and the calculation of

1 them, which was being brought to the attention of
2 management on several occasions. When there was any
3 indication that a strike was imminent we as union
4 officials were called by the company in an attempt
5 to straighten out these problems to avoid the strike
6 situation. We found ourselves in the position of
7 working all night with management to try to bring
8 around arrangements that would be satisfactory to the
9 employees at that particular stage and therefore
10 avoid the strike situation. Despite our efforts,
2 11 there was a strike the following morning which began
12 at the start of the day shift which was about six
13 o'clock at that time. At eight o'clock that
14 morning there was issued warrants against nine of
15 our local union officials, most of whom had taken
16 part in the attempt to try to avoid the strike,
17 enjoining them to desist from watching or besetting
18 the company.

19 MR. POLLOCK: Do you mean by criminal
20 action or was it by civil action?

21 MR. GILCHRIST: I am not sure, but I
22 assume it would be from the Ontario Supreme Court.

23 MR. POLLOCK: Well, it was a court
24 order. It didn't appear in Magistrate's Court?

25 MR. GILCHRIST: It was a court order
26 to cease and desist from watching and besetting.

27 THE COMMISSIONER: That was just an
28 injunction.

29 MR. GILCHRIST: Yes. The strike had
30 begun at six o'clock in the morning and this order was

1 issued at eight o'clock or shortly thereafter and
2 these orders were delivered to Elliot Lake by the
3 Ontario Provincial Police cruiser and they were then
4 issued out by the sheriff of that district by one
5 o'clock in the afternoon. This in no way assisted
6 us to settle that strike situation. The very people
7 that were involved in trying to do something about
8 it were the people that received these injunctions.
9 However, we were able to settle that in a matter of
10 24 hours by having meetings and explaining solutions
11 to the problem that we had worked out and having the
12 men back on the job within 24 hours. But this was
13 certainly without any assistance in my own opinion
14 from the court who agitated the situation by sending
15 out these injunctions, nor by the company, as a matter
16 of fact, by laying these particular charges.

17 THE COMMISSIONER: What was the actual
18 difficulty?

19 MR. GILCHRIST: It was involved
20 where the calculation of consent of earnings, the
21 payment of consent of earnings.

22 THE COMMISSIONER: In what way?

23 MR. GILCHRIST: That is if you are
24 running a raise in the mine at that particular time
25 although you ran the same distances at the same size
26 raises that one person might be properly paid under
27 the incentive system where you are paid by the front and
28 other people, because of the supervision that they were
29 responsible for.

30 MR. POLLOCK: That is a grievable matter,

1 wasn't it?

2 MR. GILCHRIST: No, it wasn't at that
3 time.

4 MR. POLLOCK: Was there absolute
5 discretion in how to determine the incentive rates?

6 MR. GILCHRIST: They had at that time.

7 THE COMMISSIONER: Well, that has been
8 removed then by provision.

9 MR. GILCHRIST: We do have the right
10 to arbitrate it since that time. This was a long drawn-
11 out process and I have seen wildcat situations arise
12 even then because the process takes so long that you
13 have to try out for one incentive period and then
14 you find grievances and it might be several months
15 before you get it arbitrated. I have seen strike
16 situations even in those cases where we have the
17 right to arbitrate. In the most part mining strike
18 actions occur and very quickly. They don't build up
19 over a period of time, but no one really has
20 knowledge of when they might come to a head, as it were,
21 and usually when it does occur the grievance procedure
22 is no use at all. Generally speaking, where there
23 have been strike situations in the mines and
24 I am talking about perhaps 24 wildcat situations over
25 the past 12 years, in that area, and we have had
26 three as recently as the last six months in Elliot
27 Lake --- one at the Nordic Mine and one at the
28 Dennison Mine and the Pronto Mine. All three of them
29 involved the calculation of bonuses. Both Dennison
30 and Nordic were only in the underground departments,

1 and they were settled within a matter of one shift.
2 The Pronto strike continued on for about five days
3 before that was satisfactorily settled. It would
4 appear to me generally that where the companies are
5 willing to accept that complaint of a large number
6 of employees and to do something about it, the
7 situation can be worked out to everyone's mutual
8 satisfaction. In cases where the company takes the
9 position that the employees, that this is a crime
10 and they must be penalized or discharged, and it
11 will take longer to work out, you have a residue
12 of bad feelings in that area for some time.

13 THE COMMISSIONER: Well, the strike
14 is in fact illegal in the sense that it is a violation
15 of the existing agreement.

16 MR. GILCHRIST: I realize that, sir,
17 but certainly they have happened over a long number of
18 years and there is no indication in the past six
19 months or a year, for instance, that they are going to
20 stop. There is a reason for them and there could
21 be solutions built into our Labour Relations Act
22 whereby these things could be worked out rather than
23 take the long time required through the grievance
24 procedure.

25 MR. POLLOCK: You will let us know
26 what those solutions are, will you?

27 MR. GILCHRIST: I am sure you have
28 heard comments on it in the last three months. But I
29 merely want to repeat that what is recognized that
30 from time to time group action is taken because of

1 general specific problems.

2 THE COMMISSIONER: Couldn't the union
3 submit the matter to the company apart from any
4 provision, providing there was a legitimate dispute?

5 MR. GILCHRIST: In all cases I was
6 involved in there has been in every instance bringing
7 this to the attention of management and in many cases
8 filing grievances about the particular problems that
9 exist. But generally it was the result of failure
10 to act on our recommendations, or failure to resolve
11 these problems that caused the wildcat in itself.

12 THE COMMISSIONER: But the ultimate
13 solution, which side either the union or the company
14 was nearer the result?

15 MR. GILCHRIST: In all cases I have
16 been involved in the men - what we are asking for became
17 the result.

18 THE COMMISSIONER: Before you make
19 provisions for these incentives, don't you have
20 some means of applying them or determining them?

21 MR. GILCHRIST: In some contracts
22 you have some means, but in general terms this is
23 something that the management hold near and dear to
24 them and certainly want to negotiate away the right
25 to change a set of standards from time to time. But
26 in the various contracts in some cases we have good
27 incentive clauses and in other cases no incentive
28 clauses at all. I would like now to call on Mr.
29 Soden who is President of Local #6500 who has some
30 comments and I would like with him Mr. Sequin to cover

1 the situation of last summer.

2 MR. SODEN: I am Tony Soden, President
3 of Local #6500. I think I would like to say a few
4 things on conciliation services and also what I
5 believe to be the cause of the 1966 work stoppage
6 in the Sudbury area. Conciliation service to me is
7 only a convenience for both companies and unions to
8 be used, knowing full well that according to the law
9 there are different steps you must take such as
10 if the Minister decides to send in a conciliation
11 officer you know very well that this has to be done
12 and there is nothing that the union can do in between
13 this stage.

14 Then you have the conciliation board
15 which is another gimmick which only serves the
16 purpose of motivating anger and discontent,
17 impatience and hate in the worker's mind, because when
18 a contract is due and let us use the ones I am
19 concerned with only, and the one I am most familiar
20 with. On the 10th of July some of the workers
21 believed that they should be able at the end of this
22 contract if a contract is not negotiated to go out
23 on a legitimate strike, but as you know, sir, with
24 your experience in promoting labour laws and your
25 formula that we are under today, the Rand Formula,
26 that this is a very awkward situation that you have
27 put workers in. It is not all workers that can
28 control themselves to a point that they will stay
29 put and they do what several labour leaders would
30 want them to do. The last negotiations we spent some

1 82 days travelling between Sudbury and Copper Cliff
2 and Sudbury and Toronto, listened to the company using
3 the Labour Relations Act to the maximum. Outside
4 of conciliation services we have another gimmick
5 thrown in there where the Minister of Labour could
6 intervene and prolong the agony again, then it becomes
7 a matter of nothing else but brakemanship.

8 The contract is signed a few
9 days or a day before the deadline, which the evidence
10 states quite clearly in the last episode we had in
11 Sudbury. I think the law should be and I hope
12 sincerely, sir, that you will recommend this in your
13 studies that at the end of the contract all conciliation
14 services or whatever they have must be completed, and
15 the men are legally allowed to strike if they do see
16 fit by the majority vote.

17 MR. POLLOCK: I suppose that would
18 also apply to lockouts?

19 MR. SODEN: The same thing. It serves
20 two purposes and we are in the same company and we
21 have to live together and abide by the same laws.
22 The wildcat in Sudbury, some people call it a wildcat,
23 but I don't, sir. I call it a deliberate agitation
24 on behalf of the company which forced our guys to
25 commit crimes that normally, if they were sincere in
26 bargaining, could have been avoided. I am more concerned
27 with this and more familiar with this scene and I am the
28 guy that some people have seen fit to blame for it,
29 which I did not have anything to do with calling the
30 strike. I have been in contact with the government,

1 letters to Mr. Rowntree, complaining about the amount
2 of overtime that men were being forced and even
3 threatened with penalties if they did not work, after
4 putting in 40 hours in a mine or in a smelter. There
5 are lots of human beings that don't want to be
6 exposed to this any extra hours than is definitely
7 necessary.

8 Re negotiating what they call a
9 48-hour contract, but we have lost, telling us
10 that if the company so sees fit they can work you up
11 to 48 hours because this is the law of the province
12 and we have to abide by this law. But it is a bad law,
13 and bad laws cause people to break the law.

3 14 It could be a great expense to human beings to have
15 such laws changed. The wildcat

16 THE COMMISSIONER: How many days a
17 week does the plant work?

18 MR. SODEN: Sometimes it was on a seven-
19 day operation and supposedly 40 hours which means you
20 will get your shift off during the week, but it is a
21 seven-day operation and mostly at the surface plant
22 and now this is in some of the mines too.

23 MR. POLLOCK: You didn't have in
24 your contract at that time the type of clause that
25 Mr. Gilchrist referred to that made the over 40-hour
26 overtime?

27 MR. SODEN: We don't have it now
28 and we couldn't negotiate it out because there were
29 other problems put to us that were brought on that
30 caused a lot of the things that we should have got if

1 we had had proper help from the government. It would
2 not have been necessary to negotiate these things
3 out. If the laws were proper, we wouldn't have to be
4 negotiating a 40-hour week, because the government
5 would have said what they believe is right for the
6 people they represent in the province a long time ago.

7 MR. POLLOCK: I suppose if the
8 government stepped in with both feet there wouldn't
9 be any necessity of negotiating anything.

10 MR. SODEN: We are not asking them to
11 negotiate the contract for us. You see, we are a
12 little more fortunate than the poor fellows who
13 don't have a union. We are asking them to set laws
14 in this country that will protect human beings
15 regardless of whether they are management, profession
16 or workers, a 40-hour week/^{is a 40-hour week}regardless. There are
17 times when emergencies come up that we will have to
18 realize that to work overtime would be necessary and
19 if you are a responsible union or a responsible worker
20 you will understand this and you will comply, because
21 what you make out of that mine or smelter eventually
22 could be money in your pocket too. The company is a
23 part of you and you should have some pride in the
24 company you work for, but this must be given to us
25 to let us know that we can have this pride and it is
26 not a selfish thing of management to maintain all
27 this jurisdiction and it would look, sir,
28 that management has a lot more persuasive powers
29 in government circles than the labour movement has.
30 Why should --- I don't like the term "wildcat", I think

1 it is a premeditated act that caused the workers to
2 walk out and I will give you some examples, sir, that
3 will strengthen my position a little more. The
4 overtime was becoming something vicious. I had
5 meetings with the company on this and they made it
6 clear to me that they had to have this overtime, this
7 problem in this place and this problem, they had to
8 have the "muck" from the mines. They had to
9 have this.

10 THE COMMISSIONER: You mean to satisfy
11 the contract?

12 MR. SODEN: To satisfy the contract
13 and outside deliveries. I spoke to the company on
14 this and I told them that it is creating a lot of hard
15 feelings, especially where men are forced to work on
16 the threat by some local supervision and I am not
17 saying that this is the threat that came from the top,
18 but you take an ordinary little lance corporal in the
19 Army and you can refer to the same thing in the company
20 that I work for, they have lance corporals and sergeant
21 majors, but they don't call them that; they call them
22 shift bosses, divisional foremen, and that sort of
23 thing. But you must have this chain of command to
24 carry out your orders. A little fellow has certain
25 brainy ideas that "I want you to work Saturday overtime".
26 You have already made plans to take your family
27 somewhere, but you have to work because if you don't
28 work there you are going to be retired for sure, because
29 they are going to torment you. These are things, sir,
30 that our government should put in legislation, defining

1 a 40-hour week. It means a 40-hour week. Sure, you
2 must have an escape clause in case of emergencies.
3 This is permissible. Before the wildcat I made
4 several attempts and called the company on it that
5 the agitation and the discrimination they were using
6 against some of our stewards were going to cause this
7 wildcat.

8 THE COMMISSIONER: What do you mean,
9 discrimination against the stewards?

10 MR. SODEN: Right in our bargaining committee
11 we had a man by the name of Bill St. Clair who was away
12 for ten days and when he went back to work he got a
13 penalty, with no explanation, for insufficient work.
14 He was on bargaining. Another steward, Mr. Brito,
15 was on holidays and when he returned from holidays
16 his foreman called him in and said, "You got a penalty
17 for insufficient work", and the man said, "My God, this
18 is my first shift back, I have just started work", and
19 the man said, "Never mind, you have got a penalty for
20 insufficient work". Another case, Pat Owens was on the
21 job and they nailed Pat Owens and left the other guy.
22 In the mine especially one man was singled out and I
23 complained to the government about it and in fact I
24 had our legal department here in Sudbury even
25 writing concerning this thing, but to no avail.
26 There are certain habits of miners and practices that
27 when they come into work they wait for the cage or
28 maybe you would refer to it as an elevator to take
29 them underground, but we call it in miners' language
30 "the cage". They are permitted to chew the rag on top,

1 and they are not at their workplace and they are on
2 company property and they will talk about unions and
3 they will talk about this and that. The first day
4 of the wildcat this did not happen, sir. This foreman
5 came and he told the guys and one of the guys was
6 Gordon Hurley and I can afford to call names because
7 these are true facts that I can back up. He threatened
8 him, "You are not talking union on the job", and all
9 this kind of stuff. This is the kind of thing that
10 went on before and in the contract you are allowed to
11 have conversation. But something had to happen. The
12 miners will then go underground and they will go to
13 the lunchroom where they will wait until the foreman
14 or shift boss comes in and gives them the lineup for
15 the day. It is a normal practice when a man gets to
16 this area, he sits down and waits for his shift boss
17 to come in because sometimes the shift bosses do not
18 travel on the same cage as the men do. Sometimes
19 there are two cages on one level or three cages and
20 they have to wait until he gets the lineup for the
21 day. You just don't go madly and do things on your
22 own. It is also a custom that these guys have a
23 lunch, a little snack before they go into the stope.
24 But this day the divisional foreman, Mr. Keller, came
25 down and disciplined this man for having his lunch.
26 This man went home, he had to go home and that is
27 what caused the wildcat --- persecution. Therefore,
28 sir, in the Labour Relations Act there should be some-
29 thing in there to deal with this discrimination of
30 any form. We have something in our collective bargaining

1 agreement which says "discrimination", and it spells
2 it out. There will be no discrimination for being
3 a member of the union, race, colour, or religious
4 creed. Then we are held to this and everything
5 outside of that is not discrimination even if he came
6 up to you tomorrow and gave you a few remarks. If
7 he called you some bad names and you put in a
8 grievance as long as it affects your race, colour or
9 religion, therefore your membership or non-membership
10 in the union, this is all right. He can call you
11 and instead of calling you a Frenchman he can call you
12 a little something else, you know, he don't mean
13 Frenchmen or German or a Jew, but he can curse you.
14 Now, the company does not condone this, and that is
15 the exact answer you will get in a grievance and it
16 is outside the collective bargaining agreement and
17 they don't deal with the points that are spelled out.
18 Therefore, I think

19 MR. POLLOCK: Is there nothing in your
20 agreement about foul language?

21 MR. SODEN: No, but foul language, to
22 be quite honest with you, is not even a very good
23 matter here, because everybody in the mining industry
24 at one time or another calls either his friend or his
25 boss or his boss calls him an S.O.B. or something
26 like that, but there are some languages and you can
27 call me tomorrow an S.O.B., and I would not be angry
28 because you are saying it when you are smiling. But
29 when you are disciplining me and you give me a real
30 blast for something that I may not have been responsible

1 for and you called me that, then I take it as an insult.
2 You will never be able to legislate to prevent foul
3 language either on management's side or the workers'
4 side. But when you complain --- now, take a guy
5 who is a relatively Christian fellow who don't swear
6 or smoke or drink or anything like that and a shift
7 boss should say to him some foul language, he takes
8 it to heart and he puts in a grievance and there is
9 nothing we can do for him because the union would
10 take it to the company and the company would say they
11 condone that kind of thing and they will investigate
12 it, but they will investigate it to doom's day and
13 you will never know if the shift boss was disciplined
14 because you come back in six months and he will do the
15 same thing again. I would like to urge you here if
16 you could put in your recommendations something to
17 deal with discrimination in line with the Human Rights
18 Code of the Province of Ontario.

19 THE COMMISSIONER: Well, does the
20 discrimination you meant-as it is-they had been taking
21 steps
22 /against one man and not against another who had been giving
23 you the same work, is that what you mean?

24 MR. SODEN: Not only that, but
25 discriminate against the gentleman here,-the two of
26 you are sitting there together. I come in and I give
27 him a warning for some particular thing and I look
28 at you and I don't say anything at all. But because
29 he is a steward, it is because I am doing that, this
30 is what is going on.

MR. POLLOCK: Maybe as a shop steward I

1 should know more than my neighbour.

2 MR. SODEN: No, this is not necessarily
3 so. This has no relation to what caused the wildcat.
4 They were picking out the leaders, who they think
5 were the leaders in the union. They didn't have
6 the wildcat yet. There was a slowdown, they tell me,
7 and I am not so sure about this, but they were going
8 to show the workers and they were going to pick out
9 Tom and John there, the big guns, and they were
10 stewards there and we are going to show you that we
11 can do this.

12 THE COMMISSIONER: Aren't they to a
13 certain extent leaders, the stewards? They occupy
14 certainly a different status in some respects from the
15 ordinary workers.

16 MR. SODEN: They are leaders to the
17 point of what you would call junior officers of the
18 local, but they are not necessarily leaders in any
19 disruption or anything outside of that.

20 THE COMMISSIONER: Don't you think
21 they have somewhat more responsibility?

22 MR. SODEN: They would be the most
23 important person in the trade union movement, the
24 stewards, they are the nerve centre.

25 THE COMMISSIONER: But in the plant
26 itself don't they have some additional responsibility?
27 They are under an obligation to look after their own
28 men.

29 MR. SODEN: To police the contract,
30 keep the members informed and be up to date on the

1 Workmen's Compensation Act and the Labour Relations
2 Act.

3 THE COMMISSIONER: But to that extent
4 they give a certain degree of leadership.

5 MR. SODEN: Yes, they do.

6 THE COMMISSIONER: Then, why don't
7 you take that man? He is in a better position to
8 defend himself.

9 MR. SODEN: I see what you are driving
10 at, sir, and maybe you are trying to tell me that the
11 only reason that they pick him out is because he is
12 a leader and he could defend himself, but under the
13 collective bargaining agreement that we have he
14 couldn't defend himself any better at the time than
15 the ordinary men on the job. He might be able to
16 speak better, but how is it that I get a penalty and
17 I say to the foreman, "This is my first day back.
18 What is this penalty for? For something I did before?".
19 and the answer was "insufficient work", and no
20 explanation for it. It shows that it was deliberate
21 and I will call it intimidation, agitation or whatever
22 it was with the calculated thinking in the mind that
23 this would happen. It would be to the better
24 interests of the company to have us out on a stupid
25 wildcat. It is money in their pocket.

26 THE COMMISSIONER: A wildcat?

27 MR. SODEN: Oh, yes, in the long run it
28 is money in their pocket because they use it as a
29 negotiating gimmick. They had to renegotiate that out
30 so there wouldn't be any reprisals to the union such as

1 lawsuits, such as what happened in Murdockville. That
2 is where they make their money.

3 THE COMMISSIONER: Well, they can do
4 that only if wrongful action is taken against them,
5 if their property is damaged.

6 MR. SODEN: Wrongful action, sir. As
7 soon as a bunch of men step out the gate during the
8 life of a contract whether it is morally right or
9 not the law does not go by morals, it goes by the
10 written letter.

11 THE COMMISSIONER: I know, but the whole
12 history of our civilization for the last 1,500 years
13 has been to teach men to control those impulses.

14 MR. SODEN: Well, sir, you are not
15 teaching them with the present laws.

16 THE COMMISSIONER: You know as well as
17 I do that it may be better, but we all have to absorb
18 certain things that are annoying to us. If we jump to
19 a gun every time somebody annoys us we wouldn't have
20 any civilized living at all.

21 MR. SODEN: Well, I don't think we
22 should jumps to guns every time, sir, but I think our
23 leaders should look down a little bit from their
24 desks and consider working people, and I am not talking
25 about workers that carry their lunch pail alone, I am
26 talking about white collar workers, even in some cases
27 those poor people are a lot worse off. The man with a
28 lunch pail at least has a union to back him up.

29 THE COMMISSIONER: Well, take yourself,
30 you are a leader and men have to have leadership and we

1 are not all qualified for that. You can control
2 yourself.

3 MR. SODEN: It is pretty hard to do
4 sometimes.

5 THE COMMISSIONER: Well, I agree that
6 we all want to burst, but we have to live down.

7 MR. SODEN: You must remember, sir,
8 even
9 that/at your age and wisdom that sometimes you got angry,
10 and even Jesus Christ did that himself and He was the
11 most perfect man. He came out and whipped the people
12 at the tabernacle. It is human nature.

13 THE COMMISSIONER: As long as you confine
14 the damage to your voice I wouldn't think it was
15 anything serious.

16 MR. SODEN: It is not always the voice.
17 Sometimes even a voice is a hard thing to control
18 because a voice sometimes agitates someone else and
19 someone else forgets it is a voice and then you have
20 trouble. But because of

21 THE COMMISSIONER: That is so, but we
22 who
23 had a chap in Toronto/said it was human nature. Well,
24 it is human nature that we have been trying to
25 discipline.

26 MR. SODEN: Neither you nor I is going
27 to live long enough to see the whole country the way it
28 should be. We have fought temporarily, we have
29 mediocres and we have medium people, and we have good
30 people. That is the way God made us. He threw us down
here and He gave us a lot of leeway.

THE COMMISSIONER: But we have improved

1 over the last 1,000 years.

2 MR. SODEN: To a speed, sir, that is
3 like unto a mule at the Santa Anita Racetrack! We are
4 very slow and very backward and that is not the fault
5 of the people, it is the fault of the leaders in
6 government, because the trade unionist can holler
7 all day if he wants to.

8 THE COMMISSIONER: Well, now in a case
9 of that sort you frown upon it and tell these men
10 that they are acting illegally, don't you?

11 MR. SODEN: If they are acting
12 illegally, yes.

13 THE COMMISSIONER: Well, take the
14 strike that is illegal. You tell them not to take
15 such action and they do. Why don't they respect your
16 leadership?

17 MR. SODEN: I don't have a chance to
18 tell them not to do it.

19 THE COMMISSIONER: But I am taking a
20 situation where you do and they refuse to follow your
21 advice.

22 MR. SODEN: Well, I have only had one
23 experience with it, sir, and that was last year. I
24 told you here that I did not look at this as a
25 wildcat at all.

26 THE COMMISSIONER: You may not have
27 looked at it, but wasn't it?

28 MR. SODEN: I would not say that it was
29 a wildcat. A wildcat is something running wild and
30 doesn't know where it is. I would take it as a protest

1 for being maltreated on the job by supervision and if
2 humans haven't got the right to stand up for what is
3 right, then it is time for us to quit and all jump in
4 the ocean. And this is where the government has come
5 in and this is the responsibility of the government
6 because I have complained to them and if you hear of
7 my words there must be records on file in Mr.
8 Rowntree's office who was the Labour Minister at the
9 time. And I think it was unfair to prevent this. But
10 at the drop of a hat we have 40,000 policemen all
11 over the City of Sudbury and all of them to agitate
12 the thing a little bit more. But it was fortunate
13 that our men were disciplined enough not to get into
14 trouble with the police.

15 MR. POLLOCK: How many policemen did
16 you say?

17 MR. SODEN: Well, that is really
18 exaggerated, sir. Let's say 100 at least or more
19 Provincial Police and they were here at the drop of
20 a hat. The Mayor of Copper Cliff picks up the phone
21 and he calls whoever he calls in Toronto and bingo ---
22 you have the whole dragoon up here. This happened
23 some years ago with Mr. Hepburn. That is not fair.
24 There is no damage to company property. All the
25 fellows were doing

26 THE COMMISSIONER: What would you do if
27 you were put in charge of that plant and these things
28 came up?

29 MR. SODEN: They wouldn't come up if I
30 was in charge because I am a human being who believes

1 in human rights.

2 THE COMMISSIONER: Are you sure of that?

3 MR. SODEN: Yes, I am very sure.

4 THE COMMISSIONER: I wouldn't be sure
5 of anyone.

6 MR. SODEN: If I can't be sure of
7 myself, then I can't

8 THE COMMISSIONER: No, you can't be
9 sure of yourself, none of us can be.

10 MR. SODEN: Well, I am sure if I were
11 working in a supervisory job that wouldn't have come
12 up.

13 THE COMMISSIONER: Well, we change in our
14 interests.

15 MR. SODEN: Well, I would not go around
16 hurting people.

17 THE COMMISSIONER: Well, I wouldn't
18 even trust myself.

19 MR. SODEN: Well, I have great
20 confidence in my Maker, and I think He built me that
21 way and in my 40 years of life I haven't changed and
22 I am not going to change now. But to go a little
23 further, sir, just a month or so ago we had some
24 of these intimidation and discrimination actions
25 against our employers; at this time safety and
26 health committee members who were getting active and
27 trying to do what was right on the job and what
28 happened to these men? They were taken off from here
29 and put there by themselves and they were isolated and
30 they were put in dirty places to work and discriminated

1 against. One man in particular was told by his
2 divisional foreman that if he keeps his nose clean
3 and leaves safety and health and stops writing these
4 letters to the government that there would be a good
5 job for him. This man suffers from a bad heart and
6 bad legs and they have got him shoved in muck with
7 loss of seniority and junior men are left in a position
8 and he is digging. There is nothing we can do about
9 that because this man is a labourer and he had to come
10 off the job he was on on account of ill health and
11 work on the level. For three years the company let
12 him do this.

13 THE COMMISSIONER: Well, who would
14 order him to do that, a foreman through the steward?

15 MR. SODEN: Not through the steward,
16 no. It was the foreman, he informed him directly.

17 THE COMMISSIONER: What was the
18 beginning of the working of the foreman? Did he
19 consult the office or the work?

20 MR. SODEN: I didn't check that out, sir,
21 and I don't know.

22 THE CHAIRMAN: Well, I think he probably
23 came up from the ranks.

24 MR. SODEN: Not necessarily. I wrote
25 a letter to the Minister of Labour and I asked for an
26 investigation into these matters and I didn't get that
27 investigation, sir, and I think again somewhere along
28 the line

29 THE COMMISSIONER: Well, those things
30 are all possible. I agree with you that they are

1 possible, but they are almost impossible to be removed
2 to some degree.

3 MR. SODEN: Not to be removed completely.
4 There are certain stumbling blocks put in the way and
5 you can't use them as you would like to, but here is a
6 recommendation I would like to leave with you on
7 safety and health. It is everybody's business --- it is
8 the workers' business, the company's business, it is
9 the government's business and everyone's business.

10 THE COMMISSIONER: I am rather
11 interested in your reference to the government because
12 generally speaking from labour and management we have
13 heard the cry "Let the government keep away from us".

14 MR. SODEN: Not necessarily so, sir.
15 Legislation should be enacted to establish joint
16 safety and health committees.

17 THE COMMISSIONER: But they have
18 legislation in safety and health,

19 MR. SODEN: Have they, sir?

20 THE COMMISSIONER: Yes.

21 MR. SODEN: Well, I think you will find
22 if you take a good look at the Mining Act ---

23 THE COMMISSIONER: Well, in the Mining
24 Act certain security provisions are in it for the
25 safety of the workers. That is commonplace nowadays,

26 MR. SODEN: Is it, sir? I would like
27 you to have a look at the Mining Act and see if you
28 can tell me anywhere in the Mining Act
there

29 THE COMMISSIONER: Well, /are regulations
30 under the Mining Act.

1 MR. SODEN: Can you tell me anywhere
2 in the Mining Act where it lays out official limits
3 of sulphur dioxide or carbon monoxide that men are
4 dying from every day?

5 THE COMMISSIONER: How many men have
6 died from either one of those in the last five years?

7 MR. POLLOCK: I think that is like
8 your 40,000 policemen.

9 MR. SODEN: I don't think it is like
10 the 40,000 policemen. I have an answer for that too,
11 sir.

12 THE COMMISSIONER: Well, have you had
13 any cases in the last five years?

14 MR. SODEN: Directly, no.

15 THE COMMISSIONER: Then how can you
16 make any distinction between direct and indirect?

17 MR. SODEN: Do you know the effect of
18 sulphur dioxide on the human body, sir?

19 THE COMMISSIONER: Well, I have been
20 made sick by it in the laboratory.

21 MR. SODEN: Would you like to hear some
22 of the details and effects on the human body?

23 THE COMMISSIONER: Well, I am giving
24 you the formula h^2S and I have forgotten the name of it
25 --- hydrogen sulphide, I think.

26 MR. SODEN:

27 THE COMMISSIONER: Well, it just turned
28 my stomach and did nothing else. But how many cases
29 of that sort took place here?

30 MR. SODEN: We have not deaths, but we

1 have every day the effects. Maybe you don't want to
2 hear. I think it would be good for you to hear.

3 THE COMMISSIONER: Then I will hear it.

4 MR. SODEN: All right. Sulphur
5 dioxide has the following effects on the human being.
6 1., his nose: it affects the membranes of the nose.
7 2., it affects his lungs. It puts a coating on the
8 lungs and the lungs do not expand to the full capacity
9 and when this does not happen it means that the heart
10 is not getting sufficient oxygen to keep it going.
11 It is also a hardening agent and it hardens your
12 arteries and it also produces sulphuric acid and
13 sulphuric acid will destroy anything and there are
14 cases daily that people die from coronaries, heart
15 attacks and this is the excuse.

5 16 MR. POLLOCK: You don't have to go
17 into the mines to get that, you can get it in
18 Toronto.

19 MR. SODEN: Well, that is from carbon
20 monoxide.

21 MR. POLLOCK: That is from sulphur
22 dioxide generating stations.

23 THE COMMISSIONER: Well, you stated
24 those things and I agree with them, but how many men
25 have suffered from them in this district in the last
26 five years?

27 MR. SODEN: Well, you can take a look
28 at the record and compensation reports and you will
29 see. I cannot give you the exact figures now.

30 THE COMMISSIONER: Can you give the

1 approximate figures?

2 MR. SODEN: I don't like approximate
3 figures.

4 THE COMMISSIONER: Then you can't give
5 any.

6 MR. SODEN: I can give you figures and
7 I can cite two guys that I know for sure or three guys
8 that I know for sure that have been affected by this.
9 It went to the point that we had to bring the
10 Department of Industrial Hygiene in here to run tests.
11 The union had to go to great extent and put these
12 Jagger meters in to test the gas and ammonia gas
13 and carbon monoxide and sulphur dioxide.

14 THE COMMISSIONER: Well, how many men
15 in the mines have suffered in the last five

16 MR. SODEN: Don't talk about the mines,
17 sir, I am talking about the smelters.

18 THE COMMISSIONER: You mean in filling
19 the air?

20 MR. SODEN: Yes.

21 THE COMMISSIONER: But don't you think
22 we are all talking about that. We are talking about
23 air pollution all over the whole North American
24 continent.

25 MR. SODEN: I am glad you mentioned
26 that. Take a look at Pittsburgh. In Pittsburgh I
27 read an article not long ago-they talk about the
28 clean air once again because management and government
29 agreed that something has to be done.

30 MR. POLLOCK: Were you over in

1 Pittsburgh before they cleaned it up?

2 MR. SODEN: Yes, sir. I was in
3 Pittsburgh

4 MR. POLLOCK: Do you think there is
5 any place comparable to the condition Pittsburgh was
6 in before they cleaned it up?

7 MR. SODEN: I haven't seen much of the
8 country, but I would say we had a reasonable share of
9 it here.

10 MR. POLLOCK: You have to turn your
11 lights on during the day to drive your car.

12 MR. SODEN: You want it to get that bad?

13 MR. POLLOCK: No, but I am saying it is
14 a terrible situation that existed at that time that
15 motivated these people to do that.

16 MR. SODEN: You think we don't have
17 fog here that you can't even see with your lights?
18 You take a trip up the Copper Cliff Road some mornings
19 and you will find out, and there again if Mr. Sopha
20 is here from the Legislature, he has been fighting
21 this for a long time himself because he went out and
22 he made tests and he made a presentation to the
23 government on this. The fog is so thick there sometimes
24 you can't get through it with a spoon. They put a
25 line down the road, but you are still dead because
26 the other guy backed into you.

27 THE COMMISSIONER: But we are all
28 subject to that. It is not confined to a particular
29 group of people. It becomes a very serious matter,
30 undoubtedly.

1 MR. SODEN: But I know this --- this is
2 your statement, that sulphur dioxide is not a real
3 harm, not a killer.

4 THE COMMISSIONER: I don't imply any
5 such thing. I had a superficial experience and I just
6 told you that to show you that I am human and I have
7 a weak stomach. But I have listened to that too much
8 in my life and I want something substantial. I agree
9 with you that the air is polluted, but how are we
10 going to change it, by calling upon some individual
11 to change it? It becomes a matter of public regulation.
12 If the public regulation isn't here, then you have
13 somebody to criticize. But it is a public matter and
14 not a private matter. It may affect private
15 individuals, of course, but it must be a public act.

16 I remember when we had the same trouble when
17 the railways used coal. They would sometimes drown
18 a city out with the unburnt coal. It blasted out of
19 the smokestacks.

20 MR. SODEN: It is unfortunate that I
21 mentioned this. I thought that this would fall under
22 the Department of Mines, but it does affect the
23 labour and I thought that being here in Sudbury that
24 would give you a better idea of what some of the men
25 have to put up with. I think they kick about it and
26 then they are discriminated against.

27 MR. POLLOCK: Getting back to the
28 discrimination business. What changes in the Labour
29 Relations Act or the Ontario Human Rights Code do you sug-
30 gest. They seem to protect both against discrimination as far



1 as race, creed, colour, nationality, et cetera, in
2 employment, and the Labour Relations Act prevents
3 discrimination? I think it is Section 50, subsection
4 (a), that provides for no discrimination in relation
5 to membership in a union and it spells out "no
6 employer shall refuse to employ or continue to
7 employ a person or discriminate against any person
8 with regard to employment or any term or condition
9 of employment because the person was or is a member
10 of a trade union or exercising any rights under this
11 Act". So if your shop steward is exercising the rights of
12 a shop steward he is discriminated against

13 MR. SODEN: They don't say it because he
14 is a shop steward. If the words "no discrimination"
15 appeared-you know as a professional man that there
16 are forms of discrimination, all forms.

17 MR. POLLOCK: Only some of them are
18 legislated against.

19 MR. SODEN: But you spell them out,
20 They spelled them out and give people a loophole and
21 say, "Well, this is not discrimination because it
22 says here 'membership in a union, race, colour or
23 religious creed'".

24 MR. POLLOCK: What is it that means
25 "or conditions of employment or exercising any right
26 under this Act"?

27 MR. SODEN: What rights do you have
28 under the Labour Relations Act?

29 MR. POLLOCK: The right to belong to a
30 trade union and to participate in the functioning of

1 | that trade union.

2 | MR. SODEN: Don't you think the Labour
3 | Department should go a little further than that by having
4 | legislation to protect the worker?

5 | MR. POLLOCK: To protect the worker from
6 | what?

7 | MR. SODEN: From unfair employers. Now,
8 | don't tell me that there aren't a lot of complaints
9 | before the Labour Relations Board of unfair practices
10 | today, even on the hours of work.

11 | MR. POLLOCK: Mr. Soden, what I was coming
12 | back to was your example of discrimination, the
13 | hypothetical case I assume between myself as the shop
14 | steward and Mr. Rand as an employer. You say you are
15 | disciplining me because we both did something that was
16 | wrong and they are disciplining me as the shop steward
17 | and the argument was that/^{they are}taking a person of leadership
18 | because he probably ought to have more responsibility.
19 | I don't see how that comes into the Labour Relations Act
20 | and how you are not protected. I am not being
21 | discriminated against because of my race, colour or
22 | trade unionism.

23 | MR. SODEN: Yes, but for everything else.
24 | You mean to tell me that discrimination limits itself
25 | to race, colour and religious creed?

26 | MR. POLLOCK: Well, if I had two people
27 | and I was going to fire one of them and one of them used
28 | profane language all the time and I didn't like profane
29 | language do you think I could discriminate on that basis
30 | and fire one of them?

1 MR. SODEN: Well, you shouldn't fire a
2 man because he uses profane language.

3 MR. POLLOCK: I am firing one or two.
4 Every choice we make is based on discrimination,

5 MR. SODEN: No. Seniority and ability.

6 MR. POLLOCK: All right then, equal
7 seniority, equal ability. It gets down to what factor
8 I am going to make this decision on.

9 MR. SODEN: If the seniority is equal
10 and the ability is equal, then management have the right
11 to make up their minds. That is if the seniority is
12 equal and the ability is equal.

13 MR. POLLOCK: Well, then, if guilt is
14 equal. They both do the same thing and you only want
15 to discipline one, then you can make your choice.

16 MR. SODEN: Then you make a fish of one
17 and fowl of the other and I don't believe in that.

18 We will send to you, sir, the whole
19 statistics of the sulphur dioxide and carbon monoxide
20 at some later date and then maybe in your leisure you
21 could sit down and read it and you will see the effect it
22 has.

23
24 ---Short recess.

25
26 MR. SEGUIN: My purpose here this morning
27 is to help you to arrive at some solutions to the problems
28 here. I believe I am speaking with some knowledge of the
29 situation that you are investigating because I was in charge
30 last summer while the president was away on negotiations

1 of probably the largest walkout in Canadian history
2 which took place here, as well as possibly the most
3 potentially dangerous in numbers at least. Really I
4 think to understand that we had to go back a number
5 of years at the time when I personally was working in
6 the plant. It was really in the negotiations of 1958
7 where a lot of this type of discussion arose and you
8 could almost say that eventually with the way the law
9 was or is now that this was bound to happen here in
10 Sudbury, because in 1958 we entered negotiations in
11 the spring and they dragged on some eight months. Now,
12 everybody in the plant was peaceful and they were
13 prepared to wait because they figured, or they thought
14 and they were sure that a final solution would arrive.
15 Some three months before a strike did take place and
16 naturally before the people knew a strike was going
17 to take place the company placed the employees in a
18 32-hour work week. This is the first time that this
19 has ever happened in Canadian history in this area.
20 It placed them on a 32-hour work week.

21 MR. POLLOCK: That was a reduction from
22 what?

23 MR. SEGUIN: From 40. Now, it was in the
24 guise of not laying off people. I can't really say
25 what the real reason was, but it was the first and only
26 time before and since this type of thing has
27 happened. Previously layoffs were put into effect and
28 this time they reduced the work week and naturally the
29 earning power of the people.

30 MR. POLLOCK: But as a better resolution

1 for everybody. If it has to come, isn't that a better
2 resolution?

3 MR. SEGUIN: It remains to be seen for
4 this reason. It depends on what you are making. If
5 you are earning enough to live properly, that's fine,
6 but if you are not, then one day's pay will put hardship
7 on all 16,000 employees rather than on 2,000 who may
8 then go and find other employment, but by reducing your
9 pay one day the person with seniority and pension rates
10 and all the other things tries to tough it out, but
11 yet he gets further and further behind and it is something
12 the men never get out of for years. As the case was,
13 some three months later the company still did not
14 budge so a strike did take place. But this was some
15 eight months after the terminal date of the agreement
16 and it was in October and a very tough October, and into
17 the winter months and the people were on the picket
18 lines and a final settlement came that did not produce
19 the gains that they anticipated. But because their
20 earning power had been reduced for three months before
21 there was no preparation on their part and the
22 assistance that the union could give them with no
23 preparation didn't provide the final result that they
24 wanted.

25 MR. POLLOCK: In actual money what would
26 be the reduction from the 40-hour week? What would be
27 the weekly return on 40 hours as compared with 32?

28 MR. SEGUIN: I believe at that time it
29 would be about \$17 a week, it would be one-fifth of
30 your pay. I imagine it would cut many people down to

1 about \$65.

2 MR. POLLOCK: But the average wage at the
3 time was \$85 or \$90 a week?

4 MR. SEGUIN: Around that, yes, and it was
5 reduced one-fifth. But I believe and I recall because
6 I was in the plant at the time and I was also on the
7 picket lines and everybody that you spoke to said,
8 "Never again, 1958". Never again would we allow either
9 the law or the company to drag the situation on and
10 have the people for a month previous to the strike
11 shutting the plants down and place them on a 32-hour
12 week and put them in a poor position to strike, that
13 was never to be again. And they were all peace-loving.
14 So we go back to this year, and just previous to it,
15 Mr. Commissioner, you yourself said something in the
16 agreement that you could file grievances. But just
17 previous to this in the contract negotiations we had
18 a two-year some grievances that were waiting settlement,
19 that were two years, that we have a backlog of 1,000
20 grievances. Things that happened on the job and the
21 people respected the law. They respected their
22 contract and they didn't walk out, but they expected
23 some solution and they never did get it. But this was
24 in their crop as well as some of ^{the} things that Mr. Soden
25 mentioned.

6 26 Then we started negotiations early this
27 year, earlier than was provided for in the contract
28 and we were most optimistic, the economy was booming
29 across the country, and we were very optimistic, but
30 it dragged on and it dragged on to the terminal date of

1 the agreement and still no realistic offers on the
2 table in the times that we have now, the prosperous
3 times, and four days later they walked off the job.
4 I believe that all of these things caused it. I also
5 believe that it is one thing to say that the law is
6 there and we must respect the law and I agree. But
7 laws must be made so that they can be respected.

8 THE COMMISSIONER: Between 1958 and 1966
9 you must have had one or two

10 MR. SEGUIN: We had a negotiation in 1963
11 which was peaceful.

12 THE COMMISSIONER: There was no strike at
13 that time?

14 MR. SEGUIN: No, and I believe, Mr.
15 Commissioner, that there wouldn't have been a strike
16 this time if we had followed the pattern of our
17 American friends on the terminal date of the agreement
18 you are either into a legal situation or you have a
19 contract, because all of us, I am sure, are aware
20 that across the country all agreements are generally
21 finalized. Both the company and the union become
22 realistic in the final week. Now, if the final week
23 is in October eight months after the terminal date or
24 if it is on the terminal date, I think both parties
25 will get realistic and if a strike is going to occur
26 it will occur in the summer or at the terminal date or
27 it will occur in the fall.

28 THE COMMISSIONER: Do you have any
29 retroactive provisions?

30 MR. SEGUIN: This is another item for

1 negotiation. Sometimes you are able to get retroactivity
2 and yet sometimes you are not. But the company
3 naturally in the cases where it is not, it is to their
4 advantage to drag it out, but it is very obvious that
5 a solution comes to a head sometime and it is obvious
6 also if you look across the country in our situation
7 here last summer and in the situation across the
8 country that 95% of the illegal strikes are after the
9 terminal date of agreements, not before. People
10 generally wait until their terminal date and if we
11 could have them settled by that time one way or the
12 other, and I believe last time that we had such a law
13 in Sudbury that we would not have had such a strike
14 because they waited four days later. They waited
15 until four days afterwards and we never did strike
16 because the final week when the conciliation board made
17 its report the company made its offers and the union
18 and company both became realistic and settled it and
19 we never had a strike. But we had lots of hardships
20 that happened here and I say needlessly, needlessly.

21 THE COMMISSIONER: Now, you speak of
22 realistic dealings. Do you imply that you begin with
23 unrealistic demands?

24 MR. SEGUIN: No. Really what I mean by
25 that is naturally in negotiations the unions go in
26 because of the type of collective bargaining that
27 goes in there are some points of meeting, a meeting
28 of minds. Generally what happens is because you can
29 drag negotiations for an eight-month period and both
30 sides realize the way the law is set up now

1 THE COMMISSIONER: But what has that to
2 do with your negotiations before the contract ends?

3 MR. SEGUIN: Because the company simply
4 does not make any offers at all until well after the
5 terminal date, until they get into negotiations.
6 They seem to hold back figuring that this conciliation
7 board is going to put a certain amount of pressure on
8 them and they are going to have to give in and so that
9 is the point when they begin to give in and I am not
10 part of management and I can't visualize their
11 thinking, but this is what is obvious to me.

12 THE COMMISSIONER: Well, there are a
13 great many cases that have been settled by the
14 conciliator.

15 MR. SEGUIN: There are a great many, I
16 agree.

17 MR. POLLOCK: There are a great many more
18 that are settled without any reference to that.

19 MR. SEGUIN: I am speaking specifically
20 of walkouts, and I venture to say that 95% of them
21 occur after the terminal date of the agreement in
22 dispute about agreements and in particular about the
23 delay in arriving at them and particularly now since
24 is is another matter on the bargaining table for
25 retroactivity. And quite often not one, and we have
26 had the occasion right here in this city here with the
27 same company. But this becomes a problem and I know
28 that some people have presented briefs before you on
29 compulsory arbitration and right away the only thing
30 I could really say on that is that I believe it cannot

1 work because for any law to work it has got to have
2 some sensible solution to it, it has got to have some
3 popular support. Obviously in my circles in the
4 trade union movement everybody you speak to with
5 very few exceptions is completely opposed to it
6 before it is even law.

7 MR. POLLOCK: They don't understand it
8 perhaps.

9 MR. SEGUIN: Most of them understand it,
10 most of them understand it. But we have a law now
11 that is not good. Laws are no good if they are going
12 to be violated. We have got to have some laws that have
13 some sensible solution to the situation and I don't
14 believe it is compulsory arbitration because it will
15 create barriers, people that are already against it.

16 THE COMMISSIONER: I don't think anybody
17 has directly advocated compulsory arbitration in
18 relation to what is called a private sector. They have
19 suggested and it is law now in two or three cases
20 where the public interest won't permit a legal strike.
21 But really we have never experienced an arbitration
22 of that sort in this company. We are afraid of the
23 name. It offends your conceptions of freedom in
24 collective bargaining. In Australia, and I mention
25 this only to show that something like it has been
26 experienced, all except wages, that is, apart from
27 minimum wages which are determined. All of these
28 matters become subjects of what they call an award
29 which is made by a labour court. Now, that is not,
30 strictly speaking, arbitration because the court doesn't

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1 consist of the nominees of the different parties. They
2 are men who are taken from both parties and the
3 extraordinary fact is that in many cases the workmen
4 will select the man who came up through management and
5 vice-versa, the management prefers the man who came
6 up through the labour world. Why, because they have
7 natural capacities and the office was itself a
8 tremendous discipline in objectivity. So I think that
9 you are running away from words because you have
10 never tried it.

11 MR. POLLOCK: The only case that I think
12 we can talk of with the experience here that has
13 recently come into action is in the hospital disputes,
14 and from the reports that we have received and the
15 submissions made to us with relation to the success of
16 that, it has been very successful and it hasn't,
17 as everyone originally thought, destroyed all
18 collective bargaining because there is a majority, 70%
19 I think of the agreements that are arrived at are still
20 negotiated and that only in the 20 to 25% area do they
21 have to resolve these things by arbitration. So it
22 hasn't really sterilized collective bargaining. I don't
23 know whether it will or not. It is something that
24 there is no evidence on either side.

25 MR. SEGUIN: Well, I believe it certainly
26 won't be of any assistance in our situation and as I
27 pointed out 95% of the strike-I believe they occur
28 and I believe the majority of the remaining occur in
29 items that come up between the terms of an agreement
30 that were not foreseen or not negotiated and the company

1 thus takes their rights and just does something and
2 it affects a large group of the employees, I believe
3 in this field there should be some law that would
4 provide for the company and the union on behalf of the
5 employees to sit down sensibly and work out some
6 solution to any problem of such a thing coming up
7 during the term of the agreement.

8 THE COMMISSIONER: Have you had any
9 experience of that sort?

10 MR. SEGUIN: I believe we are experiencing
11 at the present time something along that line.

12 THE COMMISSIONER: Could you give the
13 nature of it?

14 MR. SEGUIN: It is something the company
15 has done for a number of years. They have some people
16 in looking over the jobs and they have made
17 recommendations to the company and they call it the
18 Emerson Report and which we have not been able to get a
19 copy of, that is the union. And which in the plants
20 now they are starting to demote people and move people
21 around and changing the old pattern in the whole
22 structure. It is affecting a lot of people and even
23 the company I believe admits that it will affect a lot
24 of people in different ways. Unfortunately, I can't
25 speak more clearly on it because the company has not
26 even given us a copy so that we can even see what they
27 are going to do. This is the sort of thing, but I do
28 know that just the rumours and some of the things
29 that have gone are plans that are in a turmoil right at
30 the present time, right at the present time.

1 THE COMMISSIONER: Well, isn't that the
2 trouble, it is caused by the attitudes on both sides.
3 You have generated hostility, and the poison that
4 will destroy everything is hostility. Now, I am not
5 attributing more blame to one than the other, I am
6 simply trying to state the facts and to say that it is
7 too bad to use words very mildly.

8 MR. SEGUIN: Mr. Commissioner, this is
9 the point I am trying to get at. In this particular
10 thing with the rumours that are going, the rumour is
11 helpless to stop anything or to do anything about it
12 because the company hasn't even taken the time to talk
13 about it. As a matter of fact, I called them last
14 week on one particular thing where a bunch of demotions
15 were taking place and they said, well, I should
16 verify if this is so or not. I want to be able to tell
17 the guys that it is only a rumour. And they phone
18 back and say, "When it happens if he doesn't think
19 it is just he will be able to grieve". This is not the
20 solution when you have it spreading through all the
21 plants. This is what is causing walkouts. I think
22 there should be some law enacted that will put management
23 and the union together to work these things out.

24 THE COMMISSIONER: Well, what is the
25 difficulty of having these questions raised when the
26 impact upon men begins? It might be better and there
27 are situations in which it would be better, that
28 these changes should be the subject of negotiation. I
29 saw that in the coal mines in Cape Breton. I am not
30 prejudging anything at all because I don't know what is

1 being proposed. But even if you admit an excess of
2 what you might consider excessive managerial function,
3 nobody is in a position to complain until it affects
4 them.

5 MR. SEGUIN: I realize that, but it is
6 not necessarily only the things that affect you that
7 make the people go on walkouts. It is the things that
8 they feel are unexplained, the things that go on
9 and are unexplained, and naturally the people in the
10 plants will listen to the solutions from their union if
11 their union are part of some discussion and this is
12 the point I am trying to make. We get all the calls in
13 the union hall. If we knew something that was going
14 on we would be able to calm the situation down, as I
15 will tell you about next about the walkouts. But really
16 while I am on my feet I do want to say a little bit
17 about last summer's walkouts as it actually occurred,
18 after they occurred. As I pointed out, I was in charge
19 of them and I think in these situations many errors are
20 made many times. For instance, it wasn't the law or the
21 company that prevented violence during this walkout.
22 Now, the public media often leave the impression that
23 unions cause walkouts and violence and all this that
24 follows, but I know personally from experience of the
25 last walkout that the union prevented any violence in
26 this town. It was the union. The law, I believe,
27 aggravated the situation twofold, because it allowed
28 it to drag on as in 1958 and I believe, as I pointed out
29 before, if the law

30 THE COMMISSIONER: But how can you make

1 that charge? Doesn't it lie with you to complain about
2 conciliation being dragged out?

3 MR. SEGUIN: Yes, but nevertheless you
4 still have to go seven days after the conciliation
5 report.

6 THE COMMISSIONER: Well, that isn't very
7 long.

8 MR. SEGUIN: Well, it can be a long
9 process.

10 THE COMMISSIONER: Well, it seemed to me
11 to be other delays.

12 MR. SEGUIN: Well, I talked before on the
13 terminal date being the date that I would advocate as
14 being the time.

15 MR. POLLOCK: Let me ask you this at this
16 point: was there any significance, and I think there was
17 probably considerable significance that the '58 strike took
18 place during the winter, not a very pleasant time to
19 be on the picket line, and that during the recent
20 strike you anticipated that this might happen again.

21 MR. SEGUIN: This is natural, yes.

22 MR. POLLOCK: How would you feel if the
23 terminal date was in the middle of winter?

24 MR. SEGUIN: Irregardless I think there
25 were more underlying things in 1958. For instance, the
26 company put them on a 32-hour week, obviously a fore-
27 runner of the planned strike. It was obvious to them,
28 but not to the workers.

29 MR. POLLOCK: The terminal date would then
30 be a negotiable item and it would be very significant as

1 to when the contract terminated where everybody was
2 free at the termination date because the company I am
3 sure would like to have it in your circumstances in the
4 middle of the winter and the companies like General
5 Motors and Ford would like to have it in their off-season.

6 MR. SEGUIN: This would be better. At
7 least you would know and your members would know when
8 the terminal day is. The way it is now it is an unknown
9 quantity. Some of them go on for a year and some of
10 them are two months past the terminal date and they
11 are all over, it is an unknown quantity.

12 MR. POLLOCK: Do you get anything out of
13 the conciliation process at all?

14 MR. SEGUIN: I believe it has been of
15 some assistance at times, but I believe it is a long
16 drawn-out process that could be fitted in with the
17 terminal date by advancing the date of bargaining,
18 but at least along the possibility of a strike, the
19 possibility, and I believe that less strikes will occur
20 because when we are talking strikes we are not only
21 talking legal strikes, we are talking illegal strikes,
22 and I think we can eliminate most of the illegal
23 strikes. But I do want

24 THE COMMISSIONER: Well, for an illegal
25 strike you don't have to wait for the termination date
26 of the agreement.

27 MR. SEGUIN: No, Mr. Commissioner, but
28 95% of them occur after the date of the agreement
29 because the agreement hasn't been reached.

30 MR. POLLOCK: Is that figure based on

1 anything?

2 MR. SEGUIN: It is based on personal
3 knowledge as I know of reading across the country and
4 reading books, that most of these occur after that.

5 THE COMMISSIONER: Most of what?

6 MR. SEGUIN: The illegal strikes in this
7 country occur after the termination date.

8 THE COMMISSIONER: I assume that you
9 simply say after the termination of the contract, but
10 not after the conciliation.

11 MR. SEGUIN: No, I am talking about
12 termination of the contract.

13 MR. POLLOCK: As distinct from those
14 illegal strikes that occur during the occurrence of
15 the contract.

16 MR. SEGUIN: That is right, but I can
17 recall during the walkouts last year and as Tony pointed
18 out, 300 police were brought into town and I believe
19 it.

20 MR. POLLOCK: I think he had 100. He
21 said 40,000 and then 100 and now it is 300.

22 MR. SEGUIN: 300 exactly because I met
23 with their chief and I have seen their arsenal and
24 everything. I want to point out that they brought these
25 in for no real reason because they were promptly met
26 within two hours by 4,000 strikers, and many of them
27 armed, at Copper Cliff and for five days and five nights
28 I did not get home, and the police never went to one
29 of the picket lines. They weren't brought here to go
30 to the picket lines. Some say they were brought here for

1 law and order, but in my opinion they almost created
2 disaster if you had seen what was going on, because
3 the people thought that they were called in by the
4 company as strikebreakers because the person that
5 called them in was an executive officer of the
6 International Nickel Company and also the Mayor of
7 Copper Cliff, Mayor Dowl.

8 THE COMMISSIONER: They were all dressed
9 like policemen?

10 MR. SEGUIN: Oh, yes, they were.

11 THE COMMISSIONER: Then how could you
12 consider them to be strikebreakers?

13 MR. SEGUIN: It is not what I consider,
14 it is the people. Obviously 4,000 people don't mass
15 within two hours for nothing and an explosive
16 situation and many of them armed, as I said. But the
17 thing that tops it off is that the police never visited
18 one picket line.

19 THE COMMISSIONER: That is what I would
20 like to ask you, I thought at that time the plant was
21 closed. What was the purpose of the picket line?

22 MR. SEGUIN: To have everybody there on
23 the picket line until the police came in and then there
24 were 4,000.

25 THE COMMISSIONER: Well, they weren't
26 pickets. That was a demonstration of some sort,

27 MR. SEGUIN: No, no, they were all at the
28 picket line, but I just point this out that sometimes
29 you have got to think. You say that laws are here but
30 you have got to think when you act. But this particular

1 thing almost created a disaster and through false
2 impressions created by the public media that unions
3 are irresponsible and cause violence, it was the union
4 that resolved this whole situation here last year
5 because the police called us morning, noon and night
6 for meetings with them, and I give them credit, their
7 chiefs and inspectors. They called the union officers
8 and said, "We have got a report of trouble here and
9 maybe a phone out here", and this and that. They asked
10 us to go out, and the officers that were here and the
11 staff representatives and myself we went around to
12 these picket lines and, as I pointed out, for five days
13 and five nights and there was a lot of unsettled
14 feeling and there was a lot of potential violence and
15 we were able to keep it down by persuasion and not
16 only to the detriment of ourselves in future elections
17 as union officers, but to possible physical violence
18 ourselves. And it was the union that did it, it
19 wasn't the police and it wasn't the law and it wasn't
20 the company that kept things in hand last summer. I
21 just want to make that point because I know that you
22 read yourself in the papers a lot of things and I read
23 a lot too and I certainly lived through one and the
24 biggest one, I say, in Canada or in Canadian history
25 and I know differently and I believe that most of them
26 are the same, responsible unions are just that
27 responsible, particularly my union, the Steelworkers.
28 But in conclusion, Mr. Commissioner, I don't want to
29 take up too much of your time. I want to make a point
30 that 16,000 people don't walk off a job and give up

1 their livelihood for no reason. There has to be
2 underlying causes when they know that they will get no
3 money and no financial assistance from the union or
4 any other people. There are underlying causes and
5 the civil law will not correct that because it is the
6 final law that will get at the cause of these sorts
7 of things. I believe that our laws do need drastic
8 changes, but I think they have got to incorporate
9 the aspirations of the working people and the employer.

10 THE COMMISSIONER: Have you any
11 suggestions to make because that is what I am looking
12 for?

13 MR. SEGUIN: The basic one that I have
14 made, Mr. Commissioner, is that the terminal date of
15 the agreement should be the basic one. With that we
16 should have laws that incorporate a conciliation
17 procedure prior to that - somewhere in a streamlined
18 procedure prior to it, so that it is not dragged out
19 and could be one month, two months, three months, or
20 four months or five months. I think this is the
21 basic thing we need. It works fairly well in the
22 United States. I think it can work here and I think
23 the second law we have and I have made that point
24 before, we need something that when something comes
25 up affecting large groups of employees, a law that the
26 company and union must reach an agreement on it.
27 This, in my opinion, will settle peacefully a lot of
28 problems.

29 MR. POLLOCK: Well, how do you make a
30 law that says the union and the company must agree on

1 something?

2 MR. SEGUIN: Well, it is a negotiable
3 item.

4 MR. POLLOCK: But what if they don't
5 agree or you don't agree?

6 MR. SEGUIN: If it is a serious item you
7 have either a lock-out or a strike.

8 MR. POLLOCK: I don't know what a serious
9 item is, but to some people every item is serious and
10 to others it may not affect them. But you think any
11 negotiations

12 MR. SEGUIN: It fits into the collective
13 bargaining process of a lock-out or a strike or upon
14 reaching an agreement. This is the only type of course
15 that will force an agreement. It is better to have
16 at least a sensible discussion because you in all
17 probability will get a lock-out in any case.

18 MR. POLLOCK: I think you do a disservice
19 to the reasonableness of your arguments, or you give
20 too much credit to the company's argument, I suppose,
21 when you suggest that an impartial court couldn't
22 decide a course that is more reasonable than the
23 other. I think when arguing against the compulsory
24 arbitration aspect you say you ought to be able to
25 decide between yourselves, and that if your argument
26 is more reasonable than the company's, then anybody
27 sitting to decide those things will come to that
28 conclusion inevitably. So if your argument is a
29 reasonable one, you have a very good chance of
30 succeeding in any kind of an arbitration. If the

1 company's argument is that much better than yours, then
2 they will succeed. It is a question of having somebody
3 who can arbitrate.

4 MR. SEGUIN: Well, I think you are trying
5 to convince me.

6 MR. POLLOCK: No, but unless you feel
7 that you ought to be able to take a position that
8 doesn't stand up to the light of day and enforce it,
9 Sometimes companies take those positions too.

10 MR. SEGUIN: Well, I can't really agree
11 with you. I believe I made a couple of points that
12 I think are important and they are also covered in our
13 general Steelworkers' brief, but I wanted to speak
14 from the knowledge I had here and clear up some
15 misunderstandings because I know that this is what
16 you are trying to get at.

17 MR. POLLOCK: In your particular case
18 the only one that is wrong so far is the terminal
19 case. It isn't any technological change.

20 MR. SEGUIN: No, not really. But the
21 second one of opening negotiations at the termination
22 of the agreement poses a severe problem, something
23 just unforeseen. And they are arising in this day and
24 age. I would think the final thing I can say

25 THE COMMISSIONER: It would difficult
26 to put that into effect in a one-year agreement. Are
27 you implying one year or two years or three years in
28 order to have everything settled at the terminal date?

29 MR. SEGUIN: I am not implying any term
30 of agreement. I think it can be worked out. For instance,

1 our own is a three-year agreement. But I think in the
2 final remarks I think that any laws that are made
3 must be made so that they are sensible and workable
4 and can be respected. Any law that won't be
5 respected no matter if you think it is good or not, is
6 just asking for trouble. Thank you, sir.

7 MR. KUBE: I am the CLC representative
8 in Northern Ontario and for the past five years I have
9 been in contact with just about every labour dispute
10 between the Manitoba border and the Quebec border
11 north of Sudbury and everything and west of Sudbury.
12 So I can speak on some of these things with some
13 authority. I think one of the few things I would like
14 to recommend is that it should be perfectly legal to
15 go out on strike if a contract has expired. And let me
16 name a few instances where these things have created
17 very serious problems. If you recall Kapuskasing
18 Lumber and Sawmill Workers, their contract expired
19 at a certain time of the year when the logging operations
20 were going full blast. Now, if they had gone through
21 the legal process which means you apply for conciliation
22 services which takes usually three weeks or so, then
23 you apply for a board and then at the time when they
24 would have been legally entitled to go out on strike it
25 was no use to go out on strike because nobody was
26 required in the bush. You see, the breakup time was
27 there and there were no workers required. So it would
28 have been suicide at that particular time to go out on
29 strike and subsequently there were no workers required.
30

1
2
3 Now, here in Sudbury and let me say this.
4 I am not directly involved with local unions. I
5 assist local unions and I was with labour councils, so
6 I have maybe a more objective view on some of these
7 things than the people who are very closely involved.
8 Now, another thing that I would stress, your honour,
9 is that the Department of Labour set up a top panel of
10 arbitrators who will be available very quickly because
11 if you have a grievance pending for two years somebody
12 is going to bitch for two years on what a raw deal he
13 is getting.

14 THE COMMISSIONER: There is no doubt
15 that many of these complaints have been dragged out for
16 a year or two years, I think some even more than that.
17 What is your remedy for that? To have your roster of
18 arbitrators ready?

19 MR. KUBE: I think the Department of
20 Labour should have a panel of arbitrators ready. Now,
21 it all depends on contract and some contracts provide
22 for a panel of arbitrators and I myself like to see
23 contracts which provide for a three-man arbitration
24 board and if the parties can't agree, then the
25 Minister will appoint and I think that is the most
26 if
27 proper case because you know/the Minister appoints
28 somebody he usually can get a chairman very quickly.
29 And if a party knows that the Minister will appoint
30 them they will get together and work with the chairman
who is very easily available.

1 THE COMMISSIONER: How do you feel that
2 arbitration of that sort has worked out in the
3 generality of cases?

4 MR. KUBE: It is the other avenue open
5 to us now.

6 THE COMMISSIONER: I know, but how does
7 it seem to develop?

8 MR. KUBE: I think, for instance, on
9 ordinary grievances like wage agreements which don't
10 amount to great amounts of money, or disciplinary
11 grievances or discharge grievances, I think that
12 arbitration usually resolves these problems.

13 THE COMMISSIONER: More or less
14 satisfactorily?

15 MR. KUBE: That is right. Now, I am not
16 talking about technological changes or something, but
17 you know the ordinary everyday grievance, I think the
18 arbitration process has solved it to most people's
19 satisfaction. Now, for instance, we have found or
20 we find right now that some of the grievances which
21 are settled in arbitration are subsequently appealed
22 to the Supreme Court and the rulings are reversed,
23 and, your honour, I think that is where the problem
24 arises and that is communicating with working people
25 that the collective agreement tells you that the
26 arbitration isn't final and binding and then you find
27 you win the case in front of arbitration and then it
28 goes and the company appeals it and the decision is
29 reversed. Now, you try to explain that to a working
30 man.

1 THE COMMISSIONER: Have you any particular
2 cases in mind?

3 MR. KUBE: Yes, I recall Delta Steel
4 which was a discharge case. It was appealed and
5 reversed.

6 THE COMMISSIONER: On what grounds?

7 MR. KUBE: On the grounds that the
8 arbitrator apparently did not listen to some evidence
9 the company tried to submit, but subsequently the
10 case was heard by somebody else and the ruling was
11 reversed.

12 Another case that I remember now is
13 the case of Canada Steamship Lines at the docks in
14 Port Arthur, the Port Arthur shipyards versus the
15 United Steelworkers of America, Prof. Archer was the
16 arbitrator on that case and he ruled that two people
17 should be reinstated. The case was appealed and the
18 two people were discharged. Now, one of these people
19 happened to be the president of the local union. And I
20 think that is why these problems arise, Mr. Chairman.

21 MR. POLLOCK: Well, one moment. The
22 question as far as procedure is concerned, when the
23 arbitration is not appealed the decision is quashed
24 and then it goes back for another arbitration.

25 MR. KUBE: Not necessarily. I think it
26 could be quashed.

27 MR. POLLOCK: Well, in this particular
28 case what happened? It probably went back to another
29 arbitration.

30 MR. KUBE: No, it didn't, because you

1 see you have to remember that local unions pay for the
2 cost of arbitration. Now, Local 6500, for instance,
3 has a fairly large income, but if you have a local
4 union of let's say 250 members which is just about the
5 size of the shipyard local in Port Arthur, you just
6 don't have \$5,000 to appeal a Supreme Court decision
7 or take an arbitration decision to the
8 Supreme Court.

9 MR. POLLOCK: But you can take it to
10 another arbitration. If they quash the arbitration,
11 then it refers back to another arbitration.

12 MR. KUBE: The only thing you are doing
13 then again

14 MR. POLLOCK: Well, I am not quarrelling
15 with you, but there are some cases where arbitrators
16 make mistakes and not mistakes on the facts, but
17 mistakes on their jurisdiction, on considering material
18 that they ought not to consider.

19 MR. KUBE: The point I am trying to make
20 is not necessarily that they rule properly or
21 improperly because you know quite often, for instance,
22 what chance does a local union really have to appeal
23 a case? How many cases were there? I know of
24 approximately one or two cases, but I know an awful lot
25 of cases where the company appealed the case and had
26 them dismissed because they had the money available,
27 while the ordinary small unions don't have the money
28 available to appeal a case to the courts, so I think
29 it would cut out a lot of bad feeling if you would say,
30 "Okay, it says in the contract that arbitration shall be

1 final and binding, then let us have it final and binding.
2 If we get a raw deal a couple of times we take it in
3 our stride and I think the company should too".
4

5 Now, another thing I would like to
6 speak about, Mr. Chairman, is some of the causes of
7 these wildcat strikes or the labour disputes or various
8 strikes. That is the question of personal relation-
9 ships and I think that a lot of people don't see these
10 things, but I think most of these things are brought
11 on because of misunderstanding and mistrust and somebody
12 being very plainly arrogant.

13 THE COMMISSIONER: How are you going to
14 correct that?

15 MR. KUBE: Let me give you an example.
16 I negotiated with a company in Sudbury, and it is a
17 national company, and I am very proud to say it is
18 Dominion Stores Limited who have a terrific personnel
19 department with people completely trained and who are
20 willing to sit down and discuss problems with you
21 intelligently and try to arrive at a solution. I
22 have been negotiating with the company for the last
23 five and a half years and we had one arbitration.
24 And the only reason we had the arbitration case was
25 because we both decided let us not make a decision
26 either way, let an arbitration board decide this
27 particular thing. But you know if a company is willing
28 to sit down with their employees and the union and
29 discuss some of these problems and not stick to the
30 letter of the contract, then I think some of these
things could be solved.

1 Now, Mr. Gilchrist cited one case here
2 where one chap was discharged because the Post Office
3 didn't deliver a letter properly. Now, I wouldn't
4 blame the Post Office because I think it is a very
5 petty thing. I think if a company will not
6 re-instate an employee because he lost his job over
7 a little technicality like that that they are asking
8 for trouble.

9
10 Now, I don't think you can legislate anything to tell
11 the company how to run their personnel department, but
12 before you start screaming in great big letters
13 condemning the unions for having the odd wildcat strike
14 or something you should look at your own house a little
15 bit too. You see, the company has one advantage, You
16 see, there is one person who makes the decision and
17 in a local union you have a problem. For instance,
18 here in Sudbury you have 15,000 different people at
19 different mines and you try to get everything stream-
20 lined where one decision will be made sometimes it is
21 pretty hard, and if certain things occur and a grievance
22 occurs and there is a backlog of thousands of
23 grievances and there was a three-year agreement which
24 was below the increased cost of living for the last
25 three years there is a terrific amount of hardship and
26 I think everything boils together. You start to boil
27 the pot and you have a strike. Because people get
28 frustrated and they have to get rid of it somehow.

29 THE COMMISSIONER: What is the general
30 yearly wage of employees here?

1 MR. KUBE: International Nickel I think,
2 before the last wage increase I think the average weekly
3 wage would be something like about \$93.60 per week.

4 MR. POLLOCK: That is about \$5,000 a year.

5 MR. KUBE: Yes, but if you consider the
6 taxes some people are taking \$69 or \$70 home which isn't
7 enough in a primary industry. I think these things
8 were a factor, as you pointed out before, they didn't
9 want to go out on strike in the wintertime because it
10 creates more hardship. You know, the children have to
11 be clothed, the natural instinct would be well, look,
12 if we have to do it let us do it now. And you just can't
13 reason with 15,000 people who haven't been thinking.

14 I think some preventive measures have
15 to be taken and let me assure you I don't feel the
16 government can pass any legislation, I think if the
17 government said, "Okay, if the contract expires on the
18 10th of July, then the union should be legally
19 entitled to go out on strike and the company should be
20 legally entitled to lock the people out". And
21 everybody is prepared for it and the heads get
22 together and start negotiation. Because I know that
23 we are dealing with a tough company and you are dealing
24 with a tough local union "when do you settle, the last
25 25 minutes" and then item by item goes/when you start
26 horse trading, say, "let's take that away" and "let's give
27 this" and that is when you start negotiations. You can
28 talk for three or four months and you might learn
29 some of the problems. For instance, in contract
30 language some people have a sudden change and

1 say why they want a certain progression there, these
2 are problems that should be discussed prior because
3 I think the company is facing some problems too.

4 THE COMMISSIONER: Take this contract,
5 How many pages of writing is there?

6 MR. KUBE: I think it must be about 70
7 pages.

8 THE COMMISSIONER: How many lines would
9 there be?

10 MR. KUBE: Approximately 20 lines.

11 THE COMMISSIONER: How many provisions
12 would there be?

13 MR. KUBE: There were 20 articles and
14 subsections.

15 MR. POLLOCK: Well, is it complex or is it
16 a simple document?

17 MR. GILCHRIST: It is a complex document.

18 THE COMMISSIONER: Well, generally how
19 many would you more or less agree to?

20 MR. KUBE: Usually in the first talks you
21 follow a certain pattern and you know it all depends
22 on how the pattern is established. If it is established
23 fairly decently, then you don't have the problems
24 with future negotiations. But in the first contract
25 you have got a lawyer to draft an agreement for you and
26 then you are going to have trouble continuously. And
27 I think maybe that is for the Department of Labour and
28 the government to do something and that is to provide
29 some research.

30 THE COMMISSIONER: What research do you

1 have in mind?

2 MR. KUBE: On the question of the contract
3 language itself. To bring some conformity into
4 negotiations.

5 THE COMMISSIONER: Well, it all depends
6 on the quality of your thinking and your command of
7 words and how are you going to teach that? You speak
8 of lawyers. Well, if you want real clarity in thought
9 and expression and you don't feel able to do that with
10 your facts and training and discipline, I don't know
11 anybody who is better prepared to do that than a
12 lawyer. You know lawyers are necessary because it is
13 a rational civilization, so I must enter a protest
14 there.

15 MR. KUBE: I know you belong to the
16 profession, your honour, but I don't necessarily agree
17 with you on that point, but let me tell you from
18 experience

19 THE COMMISSIONER: Oh, no, but I am not
20 going to sit here and let you make insinuations.

21 MR. KUBE: Well, let me tell you from
22 experience that the finest agreements which are
23 applicable to both sides are worked out in most cases
24 with no legal help and let me tell you that the
25 Dominion Stores who have approximately 6,000 people
26 employed in Canada don't employ one legal person in
27 their personnel department.

28 THE COMMISSIONER: That may be, I didn't
29 say that they are necessary, but if you don't have the
30 clarity of thinking and expression, then you have to

1 employ someone else unless you are willing to get into
2 trouble.

3 MR. KUBE: Now, I

4 THE COMMISSIONER: Now, you take my
5 assumptions on this.

6 MR. KUBE: Take a look at the contract
7 breakdown and the contracts which are negotiated
8 usually

9 THE COMMISSIONER: What I was more or less
10 concerned with was this. Do you go over the whole
11 contract again every time it is renewed?

12 MR. KUBE: Not necessarily.

13 THE COMMISSIONER: But in practice are
14 most of the provisions such as you would say generally
15 you want some modification made, it may be slight or it
16 may be great? How many of these provisions drag it
17 out for three or four or five months?

18 MR. KUBE: Let me say this. The way the
19 union starts out the research department works out a
20 model contract and the only thing you fill in is the
21 words. This model contract is drafted and that is
22 usually what you start to negotiate with on the first
23 contract. Now, when you make your contract proposals
24 usually what you have if it is a small local union you
25 call a general membership meeting and then you go
26 through the contract clause by clause, and sometimes
27 you have some real dillies in the contract and it is
28 kind of hard to convince them that after all we can't
29 get everything, but I think negotiations start in
30 smaller groups of 200 or 300 people basically where

1 you always start your negotiations with the union
2 security clause, the seniority clause, hours of work,
3 fringe benefits and wages. These are the five basic
4 items. These are the items that really count, I don't
5 think the others count too much.

6 THE COMMISSIONER: Well, I think it is
7 possible, you know, for either side either the labour
8 men or the management to exercise a little bit of
9 humbug for some strategic benefit or tactical benefit.
10 We are all designed and you speak of it as a sort of
11 horse race or a game of poker or that sort of thing,
12 but that all implies that you have the gimmicks here
13 and there.

14 MR. KUBE: Yes. I recall we had a
15 seminar at the School of Fine Arts in Banff at one
16 time and we were just pulling out and the Manufacturers
17 Association had a seminar afterwards and I was checking
18 out. The girl at the desk thought I was checking in and
19 she gave me one of these clips and then it broke
20 down how you effectively negotiate with a union, let
21 me assure you.

22 THE COMMISSIONER: I suppose you kept that
23 confidential.

24 MR. KUBE: But, your honour, and I don't
25 want to waste your time. You have heard a lot of
26 these things before.

27 THE COMMISSIONER: The only reason I
28 wondered at all is why these negotiations are so long
29 and carried out and so protracted. It does seem to
30 me that if both parties are serious about it there is

1 no reason for such a delay.

2 MR. KUBE: Well, I think again it
3 depends on the size of the local union. For instance,
4 with 16,000 people

5 THE COMMISSIONER: But don't they get
6 help from you?

7 MR. KUBE: Yes. We have a research
8 department. Their problems are different. The
9 problems of International Nickel are different from
10 those of Algoma Steel because the problem you face in
11 smelters, mines and refineries or working conditions
12 and you know these are things the people feel every
13 day and I think that is the stickler here at
14 International Nickel. For instance, in the Dominion
15 Stores you work year in and year out and there is air-
16 conditioning in the summer and heat in the wintertime
17 and the only time you have any bitching is when the
18 heat goes up. But if you work in a smelter and it is
19 a drab day and a gas strike coming down, then the
20 situation changes and people like to alleviate some
21 of these problems. And I think

22 MR. POLLOCK: They should be negotiating
23 with that chap upstairs if it is the climatic conditions.

24 MR. KUBE: Well, there could always be
25 something installed to pull that up again. It is the
26 question of cost. But I think here in Sudbury as an
27 outsider I think if someday the provisions could be
28 rectified by the government to establish certain
29 patterns to take it away from the bargaining table. If
30 a person can work in the area if there is so much gas

1 there and it is very bad and the company has to abide
2 by it, then it isn't a problem of negotiations,
3 you really deal with bread-and-butter issues and it is
4 much easier to deal with bread-and-butter issues than
5 to bring in a bunch of grievances of 5,000 people
6 which you really can't solve at the bargaining table
7 anyway. Now, to close off the question of the police,
8 the Provincial Police specifically. Let me say this,
9 in the last strike the town police of Copper Cliff and
10 the Sudbury City Police were very cooperative. There
11 was no problem, they are people who are known, most of
12 them. Most of the policemen in the town of Sudbury,
13 just about everybody knows them and they are not
14 strangers so there is a certain amount of familiarity
15 and friendly talk usually stops a lot of trouble. But
16 let me assure you every time you bring in a concentrated
17 group of Provincial Police and I don't know what it is
18 but there seems to be a mental block. People get
19 scared and you know the reaction of people when they get
20 scared is awfully hard to protect and you never know
21 what could happen.

22 THE COMMISSIONER: Well, really it is not
23 "scared," they become made and angered.

24 MR. KUBE: I am not so sure, sir.

25 THE COMMISSIONER: I think it is anybody
26 who has lived a few years would understand.

27 MR. KUBE: But if there is a breakdown
28 of law and order and if the local police force can't
29 handle it, okay. We have, for instance, one situation
30 where

1 MR. POLLOCK: Let me stop you for a moment,
2 The only way the Provincial Police can come into
3 Sudbury or Copper Cliff is one of three ways. You have
4 to be invited in by the Chief of Police, by the city
5 officials, by the Ontario Police Commission, or by the
6 Crown Attorney. Are local people outside of the city
7 here

8 MR. KUBE: We checked with the City of
9 Sudbury and the City of Sudbury did not ask for
10 assistance. It wasn't the Chief of Police or the Mayor
11 or anybody else and let me say that in Copper Cliff
12 there was only-and there might have been 25 cruisers
13 in the geographical area of Copper Cliff. There were
14 only 25 cruisers and 75 policemen, but the bulk of the
15 police force was right in Sudbury here.

16 MR. POLLOCK: Did they go up to
17 Copper Cliff?

18 MR. KUBE: No, they weren't. ^{they} /were watching
19 their own cars, The largest concentration of
20 pickets under Section 89 of the Act you had at no time
21 more than 25 pickets that we counted and double-
22 checked and there were 36 Provincial Police there with
23 dogs. Now, that is silly because one Provincial
24 Policeman can handle one picket or we had better get
25 some new Provincial Police and any time you wave
26 the stick the temptation is to wave the stick back
27 every time. If you can use a little friendly persuasion
28 with picketers you are much more successful,

29 THE COMMISSIONER: If they have no
30 intention of doing anything unlawful, why don't you

1 welcome the police?

2 MR. KUBE: Let me illustrate to you, for
3 instance, you are going to strike, You are on a
4 strike at the high school for which, thank God, it
5 was removed from the Act under Section 89, but you
6 had 14 people in the bargaining unit who were
7 picketing peacefully along the highway back and forth
8 and then it was established practice that the buses
9 would pull up along the highway, stop there and
10 discharge the students and take off again. Never
11 before did they ever pull into the school yard because
12 the entrance into the school yard was very small and
13 these long school buses have an awfully hard time to
14 manoeuver into there, and here all at once entering
15 the school yard there were about eight pickets at
16 each entrance moving back and forth and no pickets,
17 no eight pickets could stop a big school bus from
18 moving in there and they just moved in there gently,
19 but ^{what} happened there were six pickets there when the
20 Provincial Police just waited across the street and
21 formed a wedge of 15 of them and threw a few pickets
22 into the ditch or the water or the snow. What
23 reaction do you get? The next time you put your shoulder
24 up a little bit harder, but there was no necessity for
25 it. If you had one or two officers there the whole
26 thing. . . .

27 THE COMMISSIONER: Why would these people
28 have to form a wedge if the passage was clear.

29 MR. KUBE: They formed that wedge because
30 it wasn't clear and do you think the pickets have a

1 right to prevent entrance?

2 MR. KUBE: No, I don't think the pickets
3 have any right to prevent entry but the only thing I
4 could say is how can six pickets stop a big school
5 bus from entering a gate?

6 THE COMMISSIONER: Well, there was one
7 complaint that a large automobile coming in went in
8 and knocked somebody over and injured him and then
9 there was a complaint made.

10 MR. KUBE: But there was no complaint.

11 MR. POLLOCK: Not in these circumstances,
12 but there was in others.

13 MR. KUBE: Well, I think before any
14 action is taken they shouldn't do it carte blanche.
15 But every time you have a big concentration of the
16 police force there seems to be trouble and a good
17 indication was Kapuskasing itself. All the Provincial
18 Police in Kapuskasing couldn't stop anybody from
19 getting killed. At the hour when justice is dished
20 out quite often working people have very little
21 regard for the judiciary of this country and how are
22 you going to explain it to the working men when 250
23 or 300 strikers are fined \$200 apiece for illegally
24 picketing and causing a disturbance and people who
25 fire at close range at strikers and get off with a
26 \$200 fine. They killed three people and you just can't
27 explain that. I am sorry, it was a \$100 fine. Now,
28 that is the reason that we have a problem here in
29 Ontario where the ordinary people are mad at the
30 government and mad at the company because these things

1 are happening. I don't think the companies or
2 government is really trained to do anything in
3 bringing the sides of the parties together in the
4 dispute.

10 5 THE COMMISSIONER: Well, I think you
6 have made your point there.

7 MR. LEBELLE: Mr. Commissioner, I don't
8 want to take too much of your time. Our organization
9 has already had two briefs presented to you, one from
10 the Ontario Council of Carpenters and the other under
11 the Northern Ontario District Council of Lumber and
12 Sawmill Workers. I believe the people who presented
13 these two briefs

14 MR. POLLOCK: We haven't heard from the
15 carpenters yet. We have heard from the Lumber and
16 Sawmill Workers.

17 MR. LEBELLE: That brief is probably
18 waiting for you.

19 THE COMMISSIONER: We do have the brief
20 itself.

21 MR. POLLOCK: Well, I don't like the way
22 you are saying they are waiting for us. I might say I
23 am anticipating them.

24 MR. LEBELLE: There is one point in the
25 Lumber and Sawmill Workers' brief and that is with
26 regard to organizers not being granted access to bush
27 camps. Now, these roads are generally undertaken by
28 the company, although perhaps the government has a
29 50% expenditure on them and the lands, of course,
30 are leased for the location of sawmills in the camps,

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1 bunk houses and what have you, and we
2 are not able to get access from the companies into these
3 areas where we are asked by the people to organize
4 them.

5 MR. POLLOCK: In some cases.

6 MR. LEBELLE: In most cases, in most cases.
7 In almost all cases where you are away from the main
8 highways and main streets we have to drive in and they
9 barricade the roads with trucks or other pieces of
10 equipment, and sometimes they barricade it not outside
11 but inside, and then you can't get out.

12 MR. POLLOCK: It is still war in the bush,
13 is it?

14 MR. LEBELLE: It is still war. I think
15 on the point that was mentioned in that brief with
16 regard to this I could tell you an episode that I
17 had in 1962. I met with managment in this particular
18 area and asked if I was permitted to visit these
19 workers and they asked us to pay them a visit. He
20 said, "Oh, yes, everything is fine. You may go up
21 there and the foreman's name is so and so. Report
22 to the office and speak to our people". So I went into
23 the office and spoke to the foreman on the job. I
24 then continued on to the bunkhouse to speak to the men.
25 Now, I am not going to describe the living conditions
26 that we met up with at that particular time, but they
27 were deplorable. We held some form of meeting with the
28 men and told them before we proceeded to organize
29 them that we would do a little bit of educational work,
30 and then we would return. In the meantime I was in

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1 Sudbury here and there was another organizer
2 representative of the Chapleau area and he was called
3 in by the company. When he entered the company's
4 headquarters he was faced with two OPP that were to
5 attend the meeting also. Now, the employer told the
6 union representative, "I have called you here and
7 these are my witnesses, these two Ontario Provincial
8 Police Officers, advising you not to go to this camp
9 and not to make use of that road," Incidentally, the
10 road was shared by three or four operators, but
11 at the far end this other operator was alone.

12 MR. POLLOCK: This sounds like
13 Chapleau Lumber, is it?

14 MR. LEBELLE: That is right, yes. So,
15 the employer at the same time while the representative
16 and the two officers were there called me up to
17 Sudbury and told me, "Would you just inform your
18 representative that he is no longer allowed on the
19 premises of the company or to make use of that road
20 and we are writing you to make this statement to you,"
21 So we did get the letter. However, not making any
22 appearances at the operation for a month or two,
23 as we had planned, the employees of the company became
24 a little concerned because we received three or four
25 letters from the employees asking us to go to the camp.
26 We could not go because of the fact that the company
27 would not permit us in. On the night of September
28 6th, 1962 a group of employees from these camps,
29 three cars in fact, loaded, came from Chapleau and
30 picked four or five of us up and brought us into that

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1 camp. Now, once we were in the camp we advised the
2 employees of the company that we were not going to
3 be there for very long - that the taxi was on its
4 way to pick us up - the wide door taxi.

5 MR. POLLOCK: That is the police wagon?

6 MR. LEBELLE: That is right. Anyway,
7 the meeting didn't last very long, about an hour,
8 When we came to get out of there our road was blocked.
9 There was a pickup truck across us on the bridge,
10 Now, there were about 80 or 90 men all in one bundle
11 here and we were very fortunate to be able to bring
12 them under control because here is what their plans
13 were: we could hear them discussing it in a big
14 circle. First of all, they would take the truck and
15 dump it in the river. Secondly, they were going to
16 destroy the company's equipment.

17 THE COMMISSIONER: These are the
18 workers?

19 MR. LEBELLE: Yes, and it was what
20 aggravated the whole thing. We said, "No, don't do
21 anything, fellows. Stay here until the Ontario
22 Provincial Police arrive and if there is any charge
23 to be laid you can lay them against us. Don't get
24 yourselves involved in any trouble." It was sort of
25 comical in a way because the employer spoke broken
26 English and we had one of these big flashlights and
27 of course the officers were behind them and he was
28 looking for me amongst the crowd and he said, "Lebelle,
29 is here, Lebelle is here?", and I said, "Right here".
30 Then he said something in French. However, the

1 following morning our thugs were charged under the
2 Petty Trespassing Act. Now, this is standard and we
3 can't move around too freely because we know that
4 other operators are waiting for the same opportunity
5 and the minute they do this then we make sure that we
6 are out of circulation for a while. I would recommend
7 very strongly that the Act, that is, the Ontario
8 Labour Disputes Act be amended to provide not only
9 in the lumber and sawmill industry, but I think the
10 same thing applies to the mining industry,
11 that it be amended to provide for access to the
12 premises of the employers by union representatives.
13 And if not I think it is especially in the woods that
14 we have been very fortunate to keep things as we
15 have to this point and I don't like to say this, but
16 I imagine that in the very next few years unless
17 something is done we are not worried about those who
18 are organized, but we can be worried about those who
19 are not organized and haven't got the facilities
20 because of the barriers that stand in our way.
21 This is going to be a very highly explosive situation
22 within a year or two. Thank you very much, sir.

23 MR. GILCHRIST: This concludes the
24 remarks by the members of the Labour Council, Mr.
25 Commissioner.

26 MR. POLLOCK: I think Mr. Soden had a
27 couple of remarks to make.

28 MR. SODEN: On collective bargaining
29 agreements I would like to see that there is some
30 legislation come out that a collective bargaining

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1 agreement should be made in the local union name and
2 not the international name. This creates a problem
3 to local union officers.

4 THE COMMISSIONER: Why isn't that a
5 matter within your control?

6 MR. SODEN: This is allowed by the
7 government also.

8 MR. POLLOCK: It is allowed, yes, but
9 that is something you could do within the international
10 union.

11 MR. SODEN: They are roadblocks to this
12 point also. We have a contract here in the name of the
13 United Steelworkers of America. This is something I
14 was never satisfied with, but I had no choice when we
15 were being organized here. But most of the unions
16 in other companies even the old union that we belonged
17 to, 598, the contract was in the name of that local.

18 THE COMMISSIONER: Well, what is the basic
19 objection to the name of the general union?

20 MR. SODEN: I have no objection to the
21 name of the union appearing along with Local 6500.
22 You see, we are limited to certain things that we
23 can talk to the company about that have to come from
24 somewhere else. There is no one who knows more about
25 our problems than us local fellows and the members of
26 the union and, as you will see, I have left a copy
27 of the contract with you and it is in the name of the
28 United Steelworkers of America, and the reason for that
29 is that in organizing when they apply for certification
30 it was applied for in the name of the union and not of

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1 the local. I think it should be in the name of the
2 local in all fairness to the local members,

3 MR. POLLOCK: Well, in some of the
4 decisions the transfer of certification from the
5 international to the local, it is an internal arrange-
6 ment.

7 MR. SODEN: But if a contract is in the
8 United Steelworkers' name....

9 MR. POLLOCK: But the certification
10 is originally the certified bargaining agent for
11 the International Nickel Company. In some cases the
12 application for certification must be made by the
13 international because there isn't any local at the
14 time.

15 MR. SODEN: Well, there is an application
16 that is, the majority of the members,

17 MR. POLLOCK: Well, there are international
18 unions that don't have locals at the time of
19 certification and then they establish a local and
20 transfer the bargaining rights from the international
21 to the local. It is optional and it is within the
22 union to decide.

23 MR. SODEN: In other words, you are
24 telling me and I am getting information now, the
25 union members decide that we want the name in our
26 name, that we could apply to the Labour Relations Board
27 and have it put in Local 6500's name?

28 MR. POLLOCK: You could apply to the
29 international to transfer that certification to the
30 local.

1 MR. SODEN: There would be no trouble
2 at all?

3 MR. POLLOCK: No, sir.

4 MR. SODEN: Thank you.

5 MR. GILCHRIST: That concludes the
6 recommendations to you, sir. We hope that we have
7 been of some help to you in arriving at your
8 conclusions.

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11 --- Luncheon Adjournment,
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11 1 --- On resuming at 2:00 p.m.

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3 MR. POLLOCK: The Algoma Steel
4 Corporation Limited, Mr. D. A. Machum, Vice-President
5 of Personnel.

6 MR. MACHUM: I would like to introduce
7 these gentlemen. Mr. O'Neill, our Superintendent
8 of Employee Relations; Mr. Wismer, our Superintendent
9 of Construction; Mr. Carroll, Assistant Secretary of
10 the Company.

11 MR. POLLOCK: Mr. Machum, I can tell you
12 that both the Commissioner and I have read the brief
13 with considerable interest and as it relates to three
14 case histories, perhaps you might want to make some
15 opening remarks as to the general background and then
16 we can proceed to discuss some details of the matters
17 raised in the brief. So, feel free to adopt any
18 approach you wish to take.

19 MR. MACHUM: I think, Mr. Commissioner,
20 that our approach here has been to select three or
21 really two incidents which occurred very recently
22 within our company and to explain what has happened
23 and add thereto our comments on how we feel about it
24 and what might be done to prevent these things
25 happening in the future. We have a third case
26 history so-called which was an incident which
27 occurred on the construction of our new plant also
28 within the last 12 months, and attached thereto are
29 our comments, our observations on the main issue
30 involved.

1 I believe with respect to the first case
2 which is the strike of the bricklayers' union at our
3 company from December 15th to January 15th and which
4 shut down our entire company, the main point that we
5 are anxious to press before the Commission is that
6 we feel this is an example of power vested in a very
7 small group of employees which was entirely unwarranted
8 as part of the protection that those employees might
9 require. A great many people in the company,
10 shareholders and other employees, suffered considerably
11 over this occurrence and while we have no objection
12 and certainly there was nothing illegal about the
13 action of the bricklayers and we could respect their
14 desire to secure certain benefits, as it so happened,
15 the benefits that they were aiming for were very much
16 different and more substantial than the benefits
17 which had been accepted by some 95% of our employees.
18 Our general attitude towards this is that these small
19 bargaining units in large industrial enterprises such
20 as ours are probably not socially very desirable,
21 despite the fact that we recognize that minorities
22 have rights and such rights should be protected, but
23 we feel that here is perhaps an instance where the
24 rights of the minority impinged heavily upon the
25 rights of the majority. And so we see in this
26 an argument in favour of the prohibition of these
27 small splinter bargaining units in a large integrated
28 industrial enterprise such as ours.

29 THE COMMISSIONER: What do you mean by
30 that, sir? Wouldn't collective bargaining apply to such

1 a group?

2 MR. MACHUM: We would suggest, Mr.
3 Commissioner, that the certification of a small local
4 union such as the bricklayers' union in our company
5 should be withdrawn and the bricklayers should be
6 represented by the major industrial union which
7 represents most of our employees.

8 THE COMMISSIONER: Why not abolish a
9 picket line? It was the picket line that caused the
10 trouble, wasn't it?

11 MR. MACHUM: With respect to the thing
12 that caused the trouble, it was the desire of this
13 small group of employees to set themselves apart from
14 the others and secure benefits much greater.

15 THE COMMISSIONER: That was it initially,
16 but what was it that prevented the other railway men
17 from working?

18 MR. MACHUM: I think the thing that
19 prevented the railway men from working was their own
20 desire not to work.

21 THE COMMISSIONER: Well, you have got to
22 give them credit. They said they wouldn't cross the
23 picket line.

24 MR. MACHUM: That is right,

25 THE COMMISSIONER: So it is the picket
26 line that ^{is} in trouble, isn't it?

27 MR. MACHUM: The steelworkers which
28 represent about 95% of the picket line all crossed the
29 picket line.

30 THE COMMISSIONER: Yes, they disregarded

1 it.

2 MR. MACHUM: That is right, on the
3 basis that they had a contract that they should honour,

4 MR. POLLOCK: But the bricklayers had a
5 contract as well.

6 MR. MACHUM: That is correct.

7 MR. POLLOCK: Did it say anything in the
8 contract about crossing the picket line?

9 MR. MACHUM: No. It is the standard
10 no-strike and no-interruption clause.

11 MR. POLLOCK: Well, I suppose they were
12 in a similar position being a small bargaining unit
13 and their contract is coming up for a renewal and that
14 they only way that perhaps they, being a small unit,
15 have any great effect on the company would be to
16 have their picket line respected by others.

17 MR. MACHUM: When the time came that
18 they were going to strike, you mean?

19 MR. POLLOCK: Yes.

20 MR. MACHUM: That is correct.

21 MR. POLLOCK: So perhaps they were looking
22 forward to the future a little bit more.

23 MR. MACHUM: I think that is very likely
24 true, but from the point of view of management with the
25 number of bargaining units that we have we obviously
26 must settle first with one unit. It has been
27 traditional, as we said in our brief, that we would
28 settle first with the major bargaining unit and that
29 the benefits won by them have been generally made
30 available without question to others and with

1 variations to suit individual circumstances.

2 THE COMMISSIONER: When your total staff
3 of bricklayers went on strike, so far as getting that
4 type of bricklayers, your work was at a standstill.
5 For a certain length of time you might have carried
6 it on.

7 MR. MACHUM: We think we would have
8 maintained normal operations for four to six weeks
9 using the supervision and substitute refractories of
10 plastic material which could be sprayed on and don't
11 require skill.

12 THE COMMISSIONER: Apart from that you
13 don't employ strikebreakers in that situation?

14 MR. MACHUM: No, we have never done so.

15 THE COMMISSIONER: Well, you couldn't
16 replace 80 bricklayers within a reasonable time.

17 MR. MACHUM: We didn't contemplate that
18 we would replace them. We think a good deal of the
19 work might well have been done by those without
20 bricklayers' skills as is often the case with tradesmen.
21 The entire range of skills is not necessary.

22 THE COMMISSIONER: How would you rank
23 that skill, those particular bricklayers?

24 MR. MACHUM: The bricklayers are
25 tradesmen, really specialists in refractory materials
26 but we would consider that there would be very large
27 elements of their work that could be done by people
28 with a very short or very small amount of training.
29 Those people would then not become bricklayers, but
30 they would be perfectly competent at one aspect or

1 another of that task.

2 MR. POLLOCK: As far as the units are
3 concerned and as far as certification, this wasn't
4 two units, other than the steelworkers weren't called
5 out of that big unit. It was all individual
6 certification at the time? It has been there for a
7 long time?

8 MR. MACHUM: For at least 20 years,
9 There are three units really besides the steelworkers
10 and the office workers. There are the two railways
11 and the bricklayers' unions.

12 MR. POLLOCK: Are there any other
13 industries of comparable size in this province that
14 have only one industrial union in operation?

15 MR. MACHUM: There are some companies
16 which are competitors of ours which don't have any, and
17 there are others that have more than one, but sometimes
18 different from ours. The Steel Company of Canada,
19 for example, does not have either of the railway
20 brotherhoods.

21 MR. POLLOCK: But they have rolling
22 stock.

23 MR. MACHUM: Yes, indeed.

24 MR. POLLOCK: And the steelworkers are
25 certified there?

26 MR. MACHUM: That is quite correct.

27 MR. POLLOCK: What about the bricklayers?

28 MR. MACHUM: They have the bricklayers as
29 a separate unit. The situation in Hamilton is somewhat
30 different. In Sault Ste. Marie the bricklayers make up

1 for perhaps, that is, those employed by Algoma, make
2 up about 50% of the bricklayers that are in the local
3 union. In Hamilton I don't believe that is so and in
4 Hamilton too, the history has been quite different.
5 You will note that in our brief we commented on the
6 acceptance of industrial union conditions by our
7 bricklayers who were incidentally originally in the
8 Steelworkers' Union, and when they broke off into a
9 separate unit they adopted the industrial type rather
10 than the construction condition. That never did
11 occur at Hamilton. They have never been with
12 steelworkers' units and they have never had industrial
13 conditions at all and have not to this day.

14 THE COMMISSIONER: What do you mean by
15 industrial conditions?

16 MR. MACHUM: One excellent example is
17 with respect to weekend work and you will recall that
18 one of the objectives was double pay for all work on
19 Saturday and Sunday. This would be considered to be a
20 construction type working condition. An industry with
21 a 21-shift operation there is no justification for
22 it. It is an entirely different thing. With
23 construction we can say "yes, we will work weekends" or
24 "no, we won't", you can turn off the switch, as it
25 were. In an industry such as ours you can't. It is a
26 very difficult problem.

27 MR. POLLOCK: Turning now to the strike
28 that occurred and the difficulties that ensued from the
29 running trades that failed to cross. Is there anything
30 in the steelworkers' contract that is negotiated that

1 would give them the opportunity to cross the picket
2 line?

3 MR. MACHUM: There is no such provision
4 in any of our contracts.

5 MR. POLLOCK: And they crossed the picket
6 line as soon as it was set up. Was any representation
7 made to you to alleviate them from any responsibility?

8 MR. MACHUM: No. When we realized there
9 were going to be picket lines set up by the bricklayers
10 and since we had planned to operate the plant we told
11 the steelworkers' union that this was our intention
12 and asked them if they would cooperate by observing
13 their contract, that we weren't going to ask them to
14 do the bricklayers' work, we just expected them to
15 look up their commitments and they, of course, said
16 they would and they did so. And during the time that
17 the picket lines were up there was only one instance
18 of a member of a steelworkers' local not going to
19 work, and saying the reason was the picket lines
20 and when we reported this to the union he came to
21 work the next day. So we lost really one day and, as
22 a matter of interest, our absenteeism rate was lower
23 than what it would ordinarily be. So we considered
24 that the steelworkers observed the contract and the
25 law.

26 MR. POLLOCK: Did you make the same
27 approaches to the running trades?

28 MR. MACHUM: Yes, we did.

29 MR. POLLOCK: What was their answer?

30 MR. MACHUM: Their answer was that their

1 constitution provided that they did not have to cross
2 picket lines, that this was a matter for the individual
3 conscience of each member and we tried to persuade
4 them that this was not true, either under their contract
5 or under the law, and we pointed out that we could
6 very well in the company, for example, pass bylaws
7 which perhaps they wouldn't even see and then we
8 could use that as an excuse. But the brotherhood
9 officers did not accept that and they spoke, of course,
10 to the vice-president in the United States and these
11 gentlemen also advised them that it was a matter for
12 the individual conscience and the constitution
13 overruled the contract and the law. As an interesting
14 sidelight, as it turned out ultimately the constitution
15 of one of the railway brotherhoods did not in fact
16 contain that provision, but they were under the
17 impression that it did.

12 18 MR. POLLOCK: Your brief also sets out
19 the attempts made to get them to go back to work and
20 subsequent disciplinary action was taken. There was
21 some suggestion that the reason they didn't cross the
22 picket line was that they were afraid to cross the
23 picket line.

24 MR. MACHUM: This, of course, was given
25 a considerable amount of publicity. They caused
26 intimidation and this began before the bricklayers'
27 strike had occurred and we were trying to persuade
28 them that they should continue to report for work and
29 observe their contract. The brotherhood union officers
30 told us that even if we were right about the

1 ineffectiveness of the constitution or the contract
2 they would still not be required to cross the picket
3 lines if they were intimidated, and this part was put
4 rather aggressively to us and sort of along the lines
5 "You won't be able to do anything with us if we are
6 intimidated". This, of course, was before the
7 occurrence and we told them that we had high respect
8 for the bricklayers and we had discussed with the
9 bricklayers the content of the strike and agreed it
10 should be handled on a sane and sensible basis and we
11 weren't going to have heads split open and so on.
12 The bricklayers had promised us and the police and so
13 on that they would behave themselves and they did and
14 as a consequence we said, "You don't have to stand
15 on the sidewalk, you can put a stove on our property",
16 and so on, and "If you have got to have a strike,
17 let's have it as pleasant as possible". Having been
18 forewarned, that this was, as we say, going to be the
19 excuse, we were watching very carefully at the picket
20 line and there was no --- we saw no acts of
21 intimidation and every time that we asked the
22 bricklayers about the intimidation or rather the
23 brotherhood, they refused to divulge any examples of
24 it and naturally having been forewarned, we were
25 very careful about pictures being taken and so on.
26 Generally speaking, the intimidation that was supposed
27 to have occurred in this picket line was off
28 the road and the steelworkers were reporting for work
29 and they were driving through to the parking lots at
30 that and every so often a car would stop and a picket

1 would go over and ask the fellow if he was from
2 transportation which is a railway running trade and
3 the man said, "Yes, can I go through", and the picket
4 would say, "Not if you are a good union man you don't
5 go through". So then the car would turn and go out.
6 I personally was there and all these gentlemen here
7 were at various of the gates between these so-called
8 acts of intimidation. We had the City Police there
9 and we had people taking pictures and we saw no
10 examples of it, nor were we ever given any. The one
11 example we were given that a picket was alleged to
12 have said, "I have a gun in my pocket and if you go
13 through, why, I will shoot you". The bricklayers
14 say that he had a smile on his face and he was
15 kidding, but that was about the only one that occurred.
16 There was also an incident on the first night of the
17 strike when a carload of young hoodlums came down
18 on the Saturday night. They were^{out}/on the town and they
19 got out of the car and staggered around until the
20 police came along and asked them to leave, and they
21 did.

22 MR. POLLOCK: When these cars approached
23 the steelworkers cars just drove in?

24 MR. MACHUM: Any car that didn't stop
25 just drove right through, including my own.

26 MR. POLLOCK: You weren't required to stop
27 at a check point or anything?

28 MR. MACHUM: We wouldn't accept the fact
29 that we needed anyone's permission to enter our own
30 plant.

1 MR. POLLOCK: But was anybody insisting
2 on it?

3 MR. MACHUM: No.

4 MR. POLLOCK: So these stops they made
5 were voluntary.

6 MR. MACHUM: That is correct.

7 MR. POLLOCK: Were they always the
8 transportation people?

9 MR. MACHUM: Occasionally there were some
10 bricklayer people did this to try and slow down things -
11 they /would stop and talk for a little while and occasionally
12 a steelworker's car would stop and say "Good luck, boys",
13 and then drive on through. But by and large it was
14 our observation that those cars drove right through
15 except those of approximately 80% of the railway
16 employees stopped.

17 With respect to intimidation railway
18 employees would then call and say, "I am sorry, I
19 couldn't get in. I came to No. 2 gate and I came to
20 No. 1 gate and the picket line stopped me and the person"
21 ---- Algoma's man on the phone would say, "Where did
22 this occur and when" and since we had our own people
23 with radios at each gate we knew for a fact that that
24 person had not in fact come to the gate at all and in
25 such cases would usually then say, "Well, where are
26 you now? We will send a car out with one of our
27 superintendents to bring you in. If you have been
28 intimidated, you don't have to accept that", and the
29 answer in most of the cases, although

30 there were some people we did drive in on that basis

1 once or twice. In almost every case they would say,
2 "Well, forget about it. I am not interested anyway
3 and I am not coming to work".

4 MR. POLLOCK: You say some of the running
5 trades came back?

6 MR. MACHUM: About 20% of them continued
7 to work as scheduled and, as a matter of fact, they
8 worked double shifts because we have a problem
9 shutting our plant which is a fairly lengthy operation
10 and it took about four days. It would take three and
11 a half or four days to do this and, of course, the
12 engines and the trainmen are vital to that, to move
13 out hot metal and get everything closed up. But
14 20% of the two unions' members kept coming to work
15 and we finally had to lay them off because we had to
16 shut the plant down.

17 MR. POLLOCK: They didn't have any
18 difficulty getting through the lines?

19 MR. MACHUM: None whatever. As a matter
20 of fact, they just walked through, often on foot. Or
21 they came on the bus or they drove in with their cars
22 and there were no incidents with respect to them
23 anywhere, on the picket line or anywhere else.

24 THE COMMISSIONER: I understand you said
25 20% of the bricklayers kept up the work.

26 MR. MACHUM: No, no, the railway people.

27 THE COMMISSIONER: You mean the railway
28 people?

29 MR. MACHUM: Yes. None of the bricklayers
30 worked.

1 MR. POLLOCK: So in effect what you are
2 saying today is that there were no overt signs of any
3 picket line violence.

4 MR. MACHUM: There was no picket line
5 violence, I can say that without any qualification
6 whatsoever. There was no intimidation on the picket
7 line that was observed or by any management employer
8 or by any City Policeman, by any bricklayer picket
9 and so far as I know by any newspaperman or public
10 citizen who was walking by.

11 MR. POLLOCK: How many pickets did they
12 have on the gate?

13 MR. MACHUM: It varied, but it averaged
14 6 or 8 per gate. Sometimes there would be more and
15 sometimes fewer.

16 MR. POLLOCK: You had these gates under
17 surveillance at all times?

18 MR. MACHUM: Well, yes. At least for the
19 first three days and then when we decided to shut down
20 we would then just have our usual plant men that are
21 always guarding the gates, but prior to that we had
22 people for supervision from the transportation
23 department and the employee relations department and
24 in other words, to watch them.

25 MR. POLLOCK: So you or someone in your
26 company would have known if there was any actual
27 intimidation at the gates?

28 MR. MACHUM: That is right.

29 MR. POLLOCK: What about in persons'
30 homes?

1 MR. MACHUM: Well, for example, on Monday,
2 the first or second day of the strike, I was at one of
3 the gates and one of the men turned, one of the railway
4 engineers or trainmen, and I stopped to talk to him
5 and asked him why he wasn't going in and he said that
6 he was scared to and I asked him had any of the pickets
7 said anything to him, and he said no, but there would
8 be trouble. I said that there was no trouble, that you
9 could go in and work quite easily and he said, "Who
10 will look after my wife and children if I die?". So I
11 asked him if his wife and children had been threatened
12 or if anyone had said anything to him about hurting
13 his wife and children and he said no, but he once
14 worked in southern Ontario where there had been a strike
15 and such threats were made and he didn't want them
16 made to his wife. When I say those of the Brotherhood
17 of Railway Men again did report for work throughout
18 the period none complained to us about ever having
19 received any threats at home or anywhere else.

20 MR. POLLOCK: Well, were any of them
21 disciplined by their own unions?

22 MR. MACHUM: No, sir, not that I am
23 aware of.

24 MR. POLLOCK: Well, they are still working
25 for you and they haven't come to complain or anything?

26 MR. MACHUM: I don't think there has
27 been anything done, no reaction of that sort.

28 MR. POLLOCK: You penalized the leaders of
29 the Brotherhood. Did anything ever happen to those
30 penalties? Were they bargained away?

1 MR. MACHUM: Yes, sir, most of them.
2 Between 80 and 85% were withdrawn. Those which had
3 been served stood and those which had not even been
4 served were withdrawn.

5 MR. POLLOCK: That became a central issue
6 of negotiations?

7 MR. MACHUM: Obviously, yes, plus our
8 claim for damages.

9 MR. POLLOCK: Well, that has been
10 suggested, that you in some way benefited by having
11 this non-monetary item on the table that the unions
12 had to press for a considerable length of time at
13 disadvantage to themselves.

14 MR. MACHUM: Items were put on the table
15 by them, not by us. My personal opinion and my
16 experience with negotiating is that such items are not
17 favourable to management during negotiations. We
18 prefer and are usually successful in having all the
19 monetary items resolved --- or, rather, non-monetary
20 items resolved before going into the monetary items.
21 For example, with the bricklayers there were no non-
22 monetary items outstanding when the negotiations broke
23 down.

24 MR. POLLOCK: Do you think that this
25 situation is now resolved or is there anything in the
26 contract that is going to resolve this issue or is
27 this going to happen again the next time?

28 MR. MACHUM: This is a difficult question
29 for me to answer. It has never happened before and I
30 think that is the first point. We have had years of
negotiations and it has always been done in the manner

1 described in the brief and usually without any real
2 difficulty. Sometimes the odd threat and so on, but
3 often there is not even that. There have been many
4 occasions, or there have been occasions in which I
5 have walked into negotiations several years ago with
6 the small unions and said clearly that "we cannot give
7 you more than the majority got clearly, and you can
8 accept that, so shall we sign now or do you want to
9 talk a while before you do?" And those people accept
10 that. Even the bricklayers and the two
11 railway brotherhoods negotiating committees were quite
12 happy this time as they have been in other years,
13 to wait until the major unions have settled because
14 they knew, it being a practical matter, that the
15 tail can't wag the dog, and if they settled for less
16 than the steelworkers later got then they would be
17 in an impossible position and if they settled for
18 more, the steelworkers obviously couldn't settle
19 for less.

20 THE COMMISSIONER: Have you ever
21 pursued a prosecution against a union?

22 MR. MACHUM: No, sir.

23 THE COMMISSIONER: Have you ever made a
24 claim for compensation and prosecuted that? I mean
25 compensation in the form of damages.

26 MR. MACHUM: No, sir, but I would like
27 to clarify that. We have not had many occasions on
28 which we might have done so. Generally speaking,
29 our labour relations have been rather peaceful. We
30 have on many occasions on short wildcat strikes

1 penalized people and it has now become accepted that
2 we penalize them on the basis --- the same basis as
3 we started out to penalize them, but if it applies
4 here. We have never, I am sorry, I think that is all.

5 THE COMMISSIONER: This is the first case
6 in which you had a small but vital group that stopped
7 the workers?

8 MR. MACHUM: Yes.

9 MR. POLLOCK: In effect the failure of
10 the transportation units to report for work really just
11 precipitated the closure of the plant six weeks early.
12 Would you have been able to continue carrying out
13 the operation past that point of six weeks to operate?

14 MR. MACHUM: That is something we would
15 like to know, but we don't. We believe yes. But we
16 must rely on senior management people who are in charge
17 of those responsibilities and I or in actual fact
18 those of us who are in staff positions were much more
19 worried than they were about being able to adequately
20 do the work. As in many trades, new methods have
21 been developed over the past years which don't require
22 all the skills or the whole range of skills, and our
23 bricklayers, like all tradesmen, were involved in
24 that sort of situation and there are a great many of
25 the things that anyone in this
26 room could do with a couple of hours of instruction,
27 but by our practice in our contract with them
28 we have fully-qualified bricklayers.

29 THE COMMISSIONER: There is nothing ahead
30 of you where you could do away with bricklayers?

1 MR. MACHUM: No, sir. While it is
2 theoretically possible that plastic refractories could
3 completely replace bricklayers, these are things
4 which are put on with guns.

5 THE COMMISSIONER: Would it require a
6 lesser degree of skill?

7 MR. MACHUM: Yes, sir.

8 THE COMMISSIONER: What would be the
9 difference, in the real work?

10 MR. MACHUM: Could I ask someone who is
11 more technically qualified? Mr. Wismer might comment
12 on that.

13 MR. WISMER: The bricklaying trade
14 is such in large industries, or as such in large
15 industries is losing its craftsmanship. It has had
16 since its inception along with most of the other trades
17 and it ^{is} getting to the point now that you are looking
18 for more production and faster production and everything
19 is moving so much faster that you are forever coming
20 up with new materials and new approaches to this
21 type of work which will expedite: not only the speed of
22 repairs, that we are primarily interested in the
23 refractory work but also the dollars
24 involved. So that the difference we are running into
25 is the new approach with plastics and ^{this} turns it into
26 a more of a labour approach than a craftsman.

27 MR. POLLOCK: So sort of piling one
28 brick on top of another and not betraying my ignorance
29 of fire brick work, they just spray with gunite or that
30 type of thing.

1 MR. WISMER: Yes, or for example, you
2 can buy these refractory plastics that come in cartons
3 already mixed and moulded, and stocked. This is broken out
4 of
5 the carton by means of a shovel and thrown into place and
6 rammed into place with airguns.

7 THE COMMISSIONER: And that is
8 sufficient?

9 MR. WISMER: Yes, and this is the trend.
10 This is the particular argument that Mr. Machum was
11 using, the business of lining up the bricks and
12 cutting the bricks to fit and mortar corners and what-
13 not was going by the boards and will be used by this
14 new modern approach.

15 THE COMMISSIONER: When you first put
16 them in in plastic what is their condition? I think
17 of something like square, but it is not that sort,

18 MR. WISMER: It is --- it can be various
19 shapes and forms. The particular material I am
20 referring to now is a ram type material which is a
21 production name for a product that is packaged in
22 about foot square containers. This is premixed in the
23 factory and, as I say, it comes to you in a pliable
24 form and they are broken apart.

25 THE COMMISSIONER: It is one mass in this
26 container?

27 MR. WISMER: That is right. It is
28 broken apart, put into position and then rammed into
29 position. It is pliable but then it is exposed to
30 the air and dried.

MR. POLLOCK: Well, you could buy a

1 container of tar and you could do the same thing with
2 that.

3 MR. MACHUM: It is more than a lump of
4 clay.

5 MR. POLLOCK: But it is not tiles/^{that are}put up?

6 THE COMMISSIONER: No, no, I am just
7 wondering how quickly does it harden.

8 MR. WISMER: Depending again on the
9 type of material and the application, Some of it
10 hardens in 24 hours and some of it hardens as it is
11 brought up in temperature.

12 THE COMMISSIONER: What keeps it in
13 shape?

14 MR. WISMER: Well, it depends. If they
15 have a roof application they are on hangers --- they
16 are on cast-steel hangers. Sometimes these are
17 formed and filled and packed in behind the forms, sir.

18 THE COMMISSIONER: Then the repairs -
19 it is just the application of a blower?

20 MR. WISMER: In a lot of instances,
21 yes, sir.

22 MR. MACHUM: I might also comment that
23 I understand that there is even a bricklaying machine,
24 although it is not in wide use. It shows what can be
25 done and technically what will be done more and more
26 as the years go by.

27 THE COMMISSIONER: It was suggested to
28 us last week that these improvements are bringing about
29 the justification of a new craft, like an all-weather
30 craft, they can do a half a dozen jobs, a half a dozen

1 technical moves. Do you experience that somewhat or
2 do you see that?

3 MR. MACHUM; That is right, yes, and as
4 a matter of fact, if it weren't for the reluctance of
5 our employees to face change and which we can under-
6 stand perfectly well, I think that we would long
7 since have combined some of the trades so that instead
8 of sending away to do a particular job four tradesmen,
9 one for each trade, we would send someone who would
10 do aspects from all trades and we might have, for
11 example, a mechanical technician who would be able
12 to do things that millwrights, pipefitters and so on
13 can do,

14 THE COMMISSIONER: Certainly in some
15 construction it would seem to be right next door,

16 MR. MACHUM: And long overdue, I believe.
17 It is very uneconomical often to send four people to
18 do a job which one person literally could do, except
19 that he is reluctant to step on the old type bonds
20 with his friendson either side. And even oftentimes the
21 men themselves will admit that it is
22 sort of silly, but what can they do if they don't want
23 to get in trouble with their fellow employees?

24 MR. POLLOCK: Well, I think we have
25 gone through the bricklayers' part of the strike and
26 we are now on where the brotherhood took over, so to
27 speak.

28 MR. MACHUM: Now, as you yourself pointed
29 out, the chief item of interest in the brotherhood
30 negotiations very quickly became the disciplinary

1 action that had been taken against the members and this,
2 of course, was of great interest to the local member-
3 ship and the claim for damages which we had filed
4 against the union which was of great interest to the
5 international union, being the people who had the
6 treasury, were called upon to meet the claim.

7 MR. POLLOCK: What was the size
8 of the claim for damages?

9 MR. MACHUM: We filed the claim for
10 damages on the day after the walkout occurred.
11 In other words, the walkout occurred on late Saturday
12 night and the claim was filed on Monday and it was for
13 all damages resulting from Sunday and the succeeding
14 days and the actual amount of the claim for damages
15 was never finally determined because it was dropped
16 before it was necessary to do so. It would have been
17 an interesting exercise to try and figure out what
18 was caused by them and what would have happened
19 anyway. But the situation in such negotiations is
20 such that it is virtually impossible to talk about
21 anything except these traumatic items which are very
22 much to the fore.

23 MR. POLLOCK: Do you concede that that
24 is a bargainable item?

25 MR. MACHUM: I consider that there is no
26 question that it is bargainable.

27 MR. POLLOCK: And you think

28 MR. MACHUM: I am not saying it should
29 be.

30 MR. POLLOCK: Well, let me put my question

1 to you first. Some jurisdictions, and I think in
2 some in Canada as well there are some items which
3 aren't bargainable items. In other words, you can't
4 compel the other side to bargain about these items
5 and it would be unfair or not bargaining in good
6 faith, let us put it that way, if you insisted on
7 bargaining these items which are classified as non-
8 bargainable. In the United States this type of item
9 penalties or arbitrations or remedies outside the
10 agreement are not bargainable. They are not bargaining
11 in good faith if they insist on that. Do you think
12 that would be of any assistance to the company that
13 it is faced with that kind of item on the table, to
14 say, "All right, we are not going to talk about that,
15 that is past and something that the Labour Relations
16 Act provides for penalties and we are proceeding with
17 them and if you persist in this you are not bargaining
18 in good faith and we will proceed to the Labour
19 Relations Act for penalties in that regard"? Perhaps
20 you might like to divorce yourself from the Algoma
21 Steel for the answer.

22 MR. MACHUM: My experience has been
23 nearly all with Algoma. It might very well be that
24 that would be helpful, but from the practical viewpoint
25 if there is a problem between the two parties in
26 negotiations, if there is a problem between the two
27 it is going to have to be gotten out of the way
28 some way or the other and so long as we are the ones
29 who are instituting the damage penalties or action,
30 why, we are stuck, and I think in a case where the union

1 refused to bargain unless the penalties were withdrawn
2 or the damage claims, they would then be guilty of
3 an unfair labour practice. I take it this is your
4 suggestion. The company would then presume they would
5 be in a position where they would prosecute the union
6 for taking part in unfair labour practices or
7 engaging in one. During this time other problems
8 would doubtless, in my view, come into play. Speaking
9 for myself, I don't believe these matters are very
10 often resolved in the courts. I think they have to be
11 resolved between the parties and certainly our very
12 brief experience with the Ontario Labour Relations
13 Board or I guess we have had experience a couple
14 of times with illegal strike declarations and it has
15 been most unsatisfactory and we now really consider
16 that this is the worst of all time.

17 MR. POLLOCK: Well, a projection of
18 your experience in this situation you knew at the time,
19 I presume, that when you came to bargaining eventually
20 with the brotherhoods that at the time you commence
21 the grievance procedure and the time you sought to
22 discipline these people, that it was going to be an
23 issue.

24 MR. MACHUM: Not necessarily, because
25 we have on many occasions disciplined people and it
26 has not become an issue. The union leadership has
27 been a strong one. These people understood everything
28 that we did, they were told beforehand that we would
29 be forced to do it. As far as discipline, we ^{have} imposed
30 this degree of discipline on many occasions.

1 MR. POLLOCK: Against the brotherhood?

2 MR. MACHUM: Not against the brotherhood,
3 I don't think we have had occasion, but certainly with
4 the other unions. But when we took these steps we
5 really didn't know for sure what the result would be.
6 It might well have been that they would have all
7 gone back to work and maybe the American vice-presidents
8 would have said, "Quickly get back to work because of
9 the liability you are imposing on us." Maybe the
10 local membership haven't just lost a lot of work
11 because of the bricklayers' strike and have said,
12 "Well, we decided that we want to keep on working",
13 and so on. It is very well in retrospect to say that
14 you should or should not have done something, but
15 these decisions are offered at the time and you can
16 only guess what is going to happen.

17 THE COMMISSIONER: At least you don't
18 make a claim that the government ought to do this.

19 MR. MACHUM: Well, we have some things
20 that the government might well do and one is
21 prohibiting the small bargaining unit. I think with
22 respect to that if you would make certain items
23 non-bargainable and then someone told them to bring
24 them into negotiations there would be an unfair labour
25 practice I think that if that is to be effective at all,
26 then the prosecution of the company or union, whichever
27 is engaging in the unfair practices, has got to be
28 with the government because you are putting another
29 step in the thing that we have now.
30

1 THE COMMISSIONER: It would prevent you
2 from using that at the bargaining counter.

3 MR. MACHUM: These steps were not taken
4 and we would never take them at the bargaining counter.
5 All we want to do is to keep the place going and have
6 people observe the law.

7 MR. POLLOCK: Well, they eventually were
8 used if we talk about retrospect we could look back
9 through a few years' time to this type and we don't
10 wish this upon you at all, but if the same thing
11 happens again and the disciplinary action is there,
12 then it is not going to have any effect on people and
13 they say, "Well, we will get back to work. You
14 cast the dye, so to speak".

15 MR. MACHUM: Not necessarily. It may well
16 be the circumstances will be different next time and
17 we would say that we are very sorry, but those
18 penalties stand and we are going to pursue the claim
19 for damages. I think the reason we didn't do so this
20 time was that our company and the major group of our
21 employees have suffered severely through the
22 bricklayers' strike.

23 THE COMMISSIONER: How long did the strike
24 last?

25 MR. MACHUM: 30 days. Our people lost
26 an average of 31 days' work.

27 THE COMMISSIONER: But from your own
28 standpoint would it have injured you very greatly to
29 have them not strike?

30 MR. MACHUM: It would have done

1 irreparable damage to our company, mainly because of
2 lost customers and people switching orders. First of
3 all, there is a 30-day or four-week strike, then there
4 was a period of uncertainty and then the strike
5 started, although it didn't last very long. During
6 this period customers call, whatever the good will,
7 they can't shut down their plant for lack of steel,
8 they have got to get it somewhere else, and so when
9 the second strike appeared on the horizon
10 which is probably a week ahead of the time it actually
11 occurred, why, the customers just switched their
12 orders to our competitors or ^{to} foreign steel.

13
14 It is our considered opinion that we lost more business
15 as a result of the railway brotherhoods' strike
16 which only lasted a few hours than we did as a result
17 of the bricklayers.

18
19 THE COMMISSIONER: Because of the special
20 situation existing at that moment?

21 MR. MACHUM: No, because it was the
22 second one.

23 THE COMMISSIONER: But you say you lost
24 more money from that than from what followed it.

25 MR. MACHUM: No, from what preceded it.
26 If there is a 30-day bricklayers' strike which was
27 over the Christmas season and that in itself caused
28 our customers who had been inclined to say, "Well, wait
29 until after Christmas", and we will come and get it.

30 These people have some stocks and

1 during the bricklayers' strike on January 15th, we
2 were back in production on the 22nd fully, and by the
3 10th of February another strike was in the air, our
4 customers had not yet had an opportunity to rebuild
5 their stocks, perhaps not even to get special orders
6 that they placed with us three months before that they
7 needed to do something with, and I am neither a steel
8 customer nor am I the sales department, but our
9 assumption is that they saw another strike coming that ^{might} well
10 have lasted another month, we can't say anything. We
11 say we can't shut our plants down because our

12
13 MR. POLLOCK: I notice in some of the
14 bargaining again some of the delays in the conciliation
15 process were because you couldn't get ahold of some
16 people. Not so much conciliation or at the conciliation
17 officer stage. There were some executives of the
18 union that were unavailable; is that correct?

19 MR. MACHUM: If I might restate that,
20 that there were delays in the bargaining process and
21 we would consider the conciliation officer part of the
22 bargaining process. Yes, that is correct, because the
23 railway brotherhood officials refused on many occasions
24 to meet with us / the presence of their people from
25 the United States and we had to wait until they came
26 and these men were busy with other things.

27 THE COMMISSIONER: What is the function
28 of these officers that come over? They are not
29 equalizing conditions with those in the United States,
30 certainly not in some respects.

1
2 MR. MACHUM: Well, we have heard a great
3 deal about wage settlements and other settlements in
4 the United States and what the American Steel Company
5 is doing and so on. No, they were there really to
6 lead the bargaining and, as a matter of fact, there
7 was one day when we were really astounded. We had
8 arranged a meeting and we were to go over Thursday
9 and Friday and the local committee would do nothing
10 on Thursday despite the concessions we made to see
11 if they would do something. On the Friday we were
12 to meet only in the afternoon and at lunchtime they
13 finally called us and said they had been in touch
14 with their officers from the United States and had been
15 instructed not to meet us again.

16 THE COMMISSIONER: Is that due to
17 the instructions from Cleveland or
18 instructions from the local union?

19 MR. MACHUM: I would say it probably
20 originated with the request of the local union. What
21 happened here was that these people were obviously
22 inexperienced and not a very strong responsible group
23 of union officers and, as a matter of fact, one or
24 two of them as a result of the tensions that developed
25 during the bricklayers' strike, quit and went into
26 the hospital and this sort of thing. These people,
27 one of the presidents said earlier on, "We can't do
28 anything, we don't know what to do, we have got to
29 rely on these men from Cleveland".

30 THE COMMISSIONER: And apparently neither

1 side was very relaxed or in a pleasant state of mind
2 while one of these clashes is in operation.

3 MR. MACHUM: I don't think there is
4 anyone who enjoys a strike, whether it be management
5 or labour.

6 MR. POLLOCK: The basis of settlement
7 including the withdrawal of the claims and the
8 cancellation of the penalties, it was suggested to you
9 by conciliation people or was it arrived at before?

10 MR. MACHUM: You are talking about the
11 railway brotherhoods now? It was suggested and you
12 will recall there ^{was} one of these marathon meetings
13 that we seldom get involved in but we did this time.
14 It was suggested by one of the conciliation officers
15 to the union and then perhaps 20 minutes or a half hour
16 later to us and we immediately said no, that we can't
17 accept that. But, unfortunately, the response of the
18 union had been enthusiastic, so we continued to say
19 no for quite a while, but it was getting late and
20 Mr. Dickie and Mr. Scott are very persuasive men and I
21 know them well, having dealt with them for many years,
22 or at least Mr. Dickie, and we finally decided that
23 under the circumstances that it was the intelligent
24 thing to do, that although we didn't care for it the
25 alternatives were very distasteful for a great many
26 people.

27 THE COMMISSIONER: What is your opinion
28 of the value of conciliation?

29 MR. MACHUM: I think it has proven
30 useful in our experience. I have heard and read, of

1 course, of your hearings, that many union officials
2 argue that it is too time-consuming and there are
3 unnecessary delays, and so on, but mostly the union
4 or the company can pretty well arrange these at the
5 conciliation officers stage In other words,
6 the company cannot delay the thing for six months.
7 You might be able to delay it for a couple of weeks
8 or so, and we are also afraid that sometimes at the
9 time that it is necessary to work out settlements
10 and the conciliation board offers that sometimes and
11 the conciliation board or a really good conciliation
12 officer can also find grounds for agreement if he is
13 a man who is respected by both parties the negotiating
14 committees for the two parties can tell him privately
15 "We would go this far", even though it would be fatal
16 to say this to the other committee. They could
17 indicate what might be grounds for agreement, and these
18 men are skilled. They are imaginative
19 and they think up all sorts of things like the one
20 they did for us.

21 THE COMMISSIONER: What are the
22 characteristics that enable you to say this?

23 MR. MACHUM: Because they have achieved
24 some results. They have persistence and imagination.

25 THE COMMISSIONER: And the futility of
26 ideas?

27 MR. MACHUM: That is what I mean by
28 imagination, but mainly persistence because my
29 observation is that when you are really in a difficult
30 negotiating position the parties if they are careless

1 or not too skilled will get themselves into positions
2 that are black and white and there is no way that
3 anyone can reasonably see to move. Now, the
4 tendency in such times is to say we are
5 wasting time, good bye, shut down and stop talking and
6 break off negotiations. Now, satisfying though that
7 might be it is ^{probably} not a good thing to do and so these
8 people who are skilled have been, in my experience, un-
9 able to keep the parties talking and talking and talking
10 and they will sometimes through futility of ideas
11 and experience elsewhere come up with that little
12 thing that may be necessary.

13 THE COMMISSIONER: You think that the
14 right to strike should really begin on termination of
15 the agreement ?

16 MR. MACHUM: I don't see any great
17 advantage to that. The disadvantage, of course,
18 would be a lack of stability from the company's view-
19 point, but if once we knew the time the strike would
20 be commenced I suppose we could plan for it. But
21 there would be, we have a history in our company in
22 settling our main agreements immediately after
23 termination. There is an understanding that anything
24 settled is retroactive. Now, in the Canadian guild,
25 as you know, Stelco and ourselves are the lead
26 companies and sometimes if Stelco is almost settled
27 we can't go and settle very well because we know that
28 if we pay more we upset them and if we pay less we
29 upset our union.
30

1 By the same token these small unions for years have
2 accepted the fact that they can't settle before our
3 major steelworkers unions, that they must wait.

4 THE COMMISSIONER: Well, supposing you
5 had provisions on which you could begin or you had
6 the right on the part of the union to require
7 negotiations three months or four months before the
8 expiration. Would it make any difference?

9 MR. MACHUM: We usually start
10 negotiations whenever the union reasonably requests it.
11 It was about three months ahead and one problem
12 has been, and we remember one year when we did start;
13 they had a union election, it had got underway,
14 and we had to start all over again.

15 THE COMMISSIONER: I think what is sought
16 is a specific date on which this could be set. "Now
17 there is the day on which we claim the power to strike".
18 It doesn't mean that they will strike, but that they
19 can succeed and I think that that is a negotiating
20 instrument. I think it ought to be made specific.

21 Supposing we made it two months after
22 the expiration of the contract; so that you could
23 have something specific, would it have a tendency to
24 hasten conclusions?

25 MR. MACHUM: My personal view is that
26 it would not. Now, we could discuss this for a long
27 time, I guess.

28 THE COMMISSIONER: I daresay but I am
29 wondering what you thought of it.
30

1
2 MR. MACHUM: I would not think that it
3 would be a good thing. I have seen situations in which
4 unions' bargaining committees have played with us for
5 time to arrange something they consider reasonable, but
6 unacceptable to their memberships. And if we can
7 give them enough time to do something it could become
8 acceptable.

9 THE COMMISSIONER: There is no general
10 understanding of the retroactivity of these agreements,
11 say six months after negotiations.

12 MR. MACHUM: In our company there has
13 been a general unwritten and unspoken understanding.
14 We have never or we have often settled as far as eight
15 months after the contract expires or expired and we
16 have only on one occasion a small union raising the
17 question of retroactivity, because if you don't get
18 going the sooner you will have to go through the snow.

19 THE COMMISSIONER: In all of the cases
20 you accept them?

21 MR. MACHUM: Without question. Because
22 it is understood that time is necessary, in my view,
23 to settle the matter.

24 THE COMMISSIONER: Well, you certainly
25 lessen the difficulty a great deal by agreeing that
26 the two contracts should really commence at the same
27 time insofar as the amount of wages is concerned.

28 MR. POLLOCK: Of course then you are
29 going into bargaining knowing that it is going to be
30 retroactive so I suppose the pressure isn't on,
that is the argument against making anything retroactive.

1 MR. MACHUM: Well, I personally believe
2 that there are companies who do not hold this feeling,
3 and I don't speak for them. This has been our practice
4 for many years and I think it is needed in our
5 generally peaceful relations.

6 MR. POLLOCK: But you might change it
7 if it became abusive, if they were intentionally
8 stalling the bargaining or something.

9 MR. MACHUM: Usually it is the company
10 that is accused of stalling.

11 THE COMMISSIONER: Yes, and I suppose
12 you treat it as if it were in effect to some extent.
13 You might not pay the money but you might retain it,

14 MR. POLLOCK: Well, now you have also
15 got some difficulties and you are not alone in this,
16 in the construction industry.

17 MR. MACHUM: If I may comment generally
18 on this; up until recently we have done what I think
19 a lot of industrial people have done, and ^{said} that is not
20 our problem. We don't really know very much about it
21 even yet. However, in the last year, and I might say
22 that we should be experienced, we have been conducting
23 and constantly trying to get an expansion for
24 approximately 12 or 14 or 15 years in which there
25 have been very few periods in which there has not
26 been some major construction work going on. And
27 oftentimes a lot of it in our own plant. Up till
28 recently they generally would say to the contractors,
29 "That is your problem, you settle it". But we
30 finally realized that they were not settling it or that

1 they were settling it at cost by accepting practices
2 that were promptly passed on to us and had actually
3 reached the stage in certain areas that the cost of
4 a project has increased because of these things
5 to a point where the return on investments is too low
6 and is no longer economically feasible to develop
7 and therefore it is not done. There are no specific
8 projects of that sort. Where we have been affected,
9 but I know it has happened with others. Now, we have
10 appended some observations on these cases and I might
11 say that there are hundreds of these, but we have
12 just picked them at random.

13 THE COMMISSIONER: Is yours a closed-shop
14 union?

15 MACHUM: You would call it a modified
16 union shop with no options to walk out. But for
17 all practical purposes about one-tenth of one percent
18 are not members of the union. Now, as you will have
19 noted in our brief, the undesirable things that
20 impress us from our viewpoint the organization
21 that ultimately pays the bills of these product boycott
22 clauses and the supply of labour that the unions have.
23 I think maybe for your sake that for a change of pace
24 and also to confuse the man who is knowledgeable and
25 expert on this matter I would like Mr. Wismer to
26 take over.

27 MR. WISMER: As Mr. Machum has pointed
28 out, sir, the two observations that we made and
29 referring primarily to pipefitters we cited three
30 examples, and I would just make these observations.

1 These are the two items that cause us the most
2 difficulty in proceeding with construction or cause
3 the general conflict the most difficulty and
4 in turn cost us as the employer agency the most hours.
5 The funny part about it is the way a contractor's
6 hands are tied when he comes to the purchase of
7 material. We realize that the contract has been
8 signed on the national level by reputable contractors
9 and we feel that in the past Mr. Machum made the
10 point that employers have thrown all of the responsibi-
11 lity directly on the contractor's shoulders and said,
12 "This is entirely up to you, we paid you to do the job,
13 Now get on with it, and let us get the thing operating".
14 However, the tendency today is for all contractors
15 not without just cause to write into their contracts
16 face-saving or money-saving sections which in turn
17 will throw the cost directly back to the employer
18 as the client.

19 THE COMMISSIONER: Well, will you give
20 an illustration of that?

21 MR. WISMER: Well, every contract we
22 enter into now with a general contractor carries either
23 the terminology that the price is based on a 40-hour
24 week, eight-hour day and the cost above this will be
25 borne by the client. I will ask Don about that tonight.

26 THE COMMISSIONER: Now, both sides know
27 the present difficulties?

28 MR. WISMER: That is right.

29 THE COMMISSIONER: They know all about the
30 piping?

1 Do you say that they find it impossible to deal with
2 that?

3 MR. WISMER: I am not saying it is
4 impossible, but it is extremely costly.

5 THE COMMISSIONER: But I mean without
6 excessive costs.

7 MR. WISMER: Well, this paper came in
8 just at the last minute and I brought it along and I
9 thought it might be interesting. This is one
10 particular small part of the job we are doing.

11
12 This situation is becoming more and more
13 prevalent. Now, according to the contracts that have
14 been signed or that would have to be acceptable
15 to this particular supplier firm here that he must ---
16 this particular material in question with pipefitters,
17 which is, as you say, approximately 25% higher than if
18 he could do it with qualified personnel.

19 THE COMMISSIONER: Well, the contractors
20 don't have an organization which would enable them to
21 refuse, or do they have?

22 MR. WISMER: I think you will find,
23 unfortunately, that the majority of contractors belong
24 to associations, but they are so numerous that they
25 don't really have any continuity or close relationship.

26 MR. POLLOCK: Some of the problems with those
27 associations is that there are some people outside and
28 those people outside will hire the employees if the
29 association takes a hardened position.

30 MR. WISMER: Yes.

1 MR, MACHUM: If I could add a comment
2 there, The greatest problem that we and other clients
3 face is the unreasonable demands^{that}/arise usually when
4 90% of your investment is in a project. I think
5 that some of the construction associations cited an
6 example that occurred in Algoma two years ago, This
7 was a \$30 million project which spread over two years
8 or more. When it was almost finished the contractor
9 ran into jurisdictional problems of unreasonable
10 demands when the union wanted to perform all that
11 sort of thing. The project was struck and Algoma
12 was left with, say, \$29 million invested in a product
13 and all the money that it was costing to get it
14 operating. The contractor couldn't do anything about
15 it and finally, of course, we had to just let the
16 contractor finish the job with our own people. All
17 the men that were working on the job had struck
18 illegally, I might say,^{and} most of them were on the
19 airplane the next morning with their fares paid to
20 another job. In other words, the employees lost
21 nothing. While the owner or the client
22 lost on his investment again and the contractor
23 lost the contract, there was a
24 completely unequal balance of power, in our view, and
25 the problem here is that the client not being a party
26 to anything has to sit back and suffer. We were
27 fortunate enough in that case we had our own crews
28 that we could put on to complete the job, but even
29 so the delay was counted in months.

16 MR. POLLOCK: Of course the big problem
30

1 in the construction industry is that there are unstable
2 working conditions in the sense that no contractor
3 has a full employee work force working for him all
4 the time or if does it is a very insignificant portion
5 of his final construction, and the contracting
6 employers have abdicated a lot of their responsibilities
7 to the union, and the union acts on behalf of these
8 employees as a "labour broker" as it has been suggested
9 as one term, and tries to get the best deal he can
10 for these people and the employer sort of has to
11 pay.

12 MR. MACHUM: You brought out earlier
13 they have no unity, for one thing.

14 THE COMMISSIONER: Is unity the essential
15 factor?

16 MR. MACHUM: We believe so, yes. We find
17 from the industrial viewpoint that this is incredible, we
18 can't understand how you can do business this way.

19 MR. POLLOCK: It is like a barbershop:
20 you go into the barbershop and take a number first
21 and then you get service.

22 MR. MACHUM: Well, the contractors are
23 complaining and the clients are complaining, but none
24 of them have got together yet to bring this thing
25 under control, although we understand there is some
26 move in that direction. The other problem, of course,
27 is the trade unions and the construction groups seem
28 to, or from our experience, deliberately refuse
29 the number of apprentices entering in the trade, so
30 they create artificial scarcities and we use the example

1 of the pipe they are using here and these people in
2 fact have a monopoly on the supply of something
3 throughout the whole of the province and if you want
4 that something badly enough you deal with them. If
5 you like to deal with Algoma, you come to Algoma, or
6 buy your steel from Stelco or Dosco or Japan or
7 England or someplace else, but if you are doing some
8 piping in Ontario you deal with these people and you
9 deal on their terms or else he says don't do it. We
10 find it difficult as clients and with our backlog
11 of experience as an industrial union, we find it
12 difficult to understand.

13 THE COMMISSIONER: This may sound
14 have
15 foolish, but I am wondering if you/pipe systems in
16 prefabricated structures.

17 MR. MACHUM: As a matter of fact,
18 in some of these cases of prefabricated pipe, it
19 being delivered to the construction site and the people
20 that are supposed to install it say, "We will not
21 unless you let us weld it back together again", so the
22 prefabrication which to me looks like a likely solution
23 to construction problems and costs, it is prevented
24 by these restrictive agreements.

25 THE COMMISSIONER: Would you think it
26 could not possibly be met by the joint action
27 or agreement on the part of the foremen and the
28 contractors?

29 MR. MACHUM: Yes, but my point was the
30 contractor might be under a little pressure, and

1 if the client says, "I have got 29 million dollars
2 tied up in that building and if you want to pay me
3 the interest"

4 THE COMMISSIONER: No, no, I am thinking
5 about the time entering into the contract, not
6 when the building is 95% finished,

7 MR. MACHUM: There is always a big
8 project somewhere that is 95% completed and the union
9 will take advantage of that at that point to apply
10 the pressure and get the concession, and then they go
11 to everyone else and say, "Well, so and so does it,
12 therefore, you have to". In other words, the
13 precedent has been created and the precedents are
14 created at that point of maximum work to clients and
15 contractors,

16 THE COMMISSIONER: That is a stipulation
17 in the contract in the beginning, and it may depend
18 on the lack of organization of the larger contractor,

19 MR. MACHUM: It is not a deficiency in
20 the one case that I have quoted about our coal mill.
21 It wasn't a deficiency in the contract because the
22 contract of collective agreement that the contractor
23 had with his employees was still valid, but they just
24 chose to ignore it and they struck their job. It
25 was an illegal wildcat strike. So even if the
26 contract could be said ^{that} he really did and I don't know,
27 but he might well have got a contract to cover the
28 whole period of the job so he would be getting
29 caught in that last 5%, but he is caught anyway
30 because the people walked off the jobs,

1 THE COMMISSIONER: You mean to say this
2 is enforced by illegal strikes as well?

3 MR. MACHUM: Of course.

4 THE COMMISSIONER: I thought otherwise.

5 MR. MACHUM: Well, sometimes by lack of
6 unity, but also in many cases by an illegal strike at
7 a very propitious moment. The contractor comes under
8 almost irresistible pressure from the client to
9 settle and make a deal and pay them the \$5,000 that
10 they want to get this done because it can amount to
11 \$50,000 a week and then the contractors pays
12 and when negotiations come up with the next chap
13 the union says, "Well, we have already got this. We
14 just want to write it in". This is a big problem with
15 respect to overtime, guaranteed overtime. We work
16 sometimes overtime and sometimes we don't, but I
17 will have people ask our contractors
18 and they will say, "If you want us to supply people
19 on the job you must be guaranteed seven days a week,
20 that is to say, 60 hours a week". You know perfectly
21 well 40 hours is real time and 20 hours is double
22 time, so that is 80 hours' pay for what will

23 really end up being more than 40 hours anyway.

24 THE COMMISSIONER: Well, take the system
25 of piping that is claimed to be such as ought to be
26 carried out or fabricated but developed on the plant
27 or on the site. When that is done in the shop is
28 there any less labour employed in that than at the
29 site?

30 MR. MACHUM: There may be less labour

1 because they get at machinery and equipment and jigs
2 in the shop to do it or it might be a different union
3 that provided the labour.

4 THE COMMISSIONER: Would the difference
5 in numbers of men be significant?

6 MR. WISMER: I don't think so, sir,
7 I think as Mr. Machum pointed out the equipment and
8 tools, the means of testing and what-not in the shop
9 would be far superior than on the field and the
10 company saves a lot of overall time on the job.

11 MR. POLLOCK: Well, sometimes there
12 might be some saving as far as the operation of the
13 transaction is concerned.

14 MR. WISMER: Yes, but significantly
15 I think labour hours would be pretty much the same
16 thing, I think you have better workmanship and a
17 little better conditions in the shop.

18 THE COMMISSIONER: Well, really it is a
19 content between different groups of pipefitters,

20 MR. WISMER: Not always pipefitters,

21 THE COMMISSIONER: Well, pipefitters on
22 one hand and the shopworkers on the other hand --- they
23 may or may not be pipefitters.

24 MR. WISMER: Yes, but their argument as
25 far as pipefitters are concerned, sir, that regardless
26 of the fact that these people may be union people,
27 that unless they are pipefitter union people, then
28 their contract says they don't necessarily have to
29 answer,

30 THE COMMISSIONER: Well, that is the thing

1 I was trying to find out,

2 MR. WISMER: It is not as though we
3 were trying to force through a non-union shop,

4 MR. MACHUM: An interesting situation
5 developed in our city and this is hearsay because I
6 wasn't there, whereby a business agent for a union
7 told the owner of a small shop that if he would do
8 certain things, accept the union as recognized,

9 and hire his people, then the man would get all
10 the business of Algoma Steel's ^{current} expansion program in
11 that line and the business agent would see to it that
12 he got it, and as the shopowner says, "I know he can
13 deliver because I have seen him deliver before". But
14 here is a situation which one man, an employee of
15 the union, is in the position where he can make a
16 statement like that, that "I would deliver all of
17 Algoma's business in this particular area to you,"

18 THE COMMISSIONER: Well, you must
19 dominate then all the possible subcontractors,

20 MR. MACHUM: But he supplies all the
21 labour,

22 THE COMMISSIONER: Yes, and he dominates
23 them in that sense,

24 MR. MACHUM: Well, if this man in the
25 shop decided to use some other kind of labour he
26 might not need pipefitters, they could do it with
27 their ironworkers or something else, then the
28 pipefitters throw up a picket line which is illegal
29 and everybody else stops going to work and we are
30 faced with a situation where our investment is tied up.

1 THE COMMISSIONER: Is the picket line
2 more or less essential to the exercise of that power?

3 MR. MACHUM: It is a useful technique
4 and I have seen it happen where although it is across
5 the road that they are out on that job, don't work
6 on it and that has been sufficient to keep everybody
7 away, or practically everybody.

8
9 --- (Short Recess)

10
11 MR. MACHUM: Mr. Commissioner, unless
12 there is something else of interest that you would
13 like to query us on, we are prepared to stand on our
14 submission.

15 MR. POLLOCK: Well, we are very much
16 obliged to you for coming all this way and obviously
17 you have been putting considerable work into this
18 submission. We know you have a long drive back in
19 this terrible weather.

20 The United Steelworkers of America,
21 Local 5500.

22 We obviously haven't had a chance to
23 read this brief, so you can go ahead and present the
24 brief as you see fit.

25 MR. BROWN: I would like to read the
26 brief if I could, please.

27 "Honourable Sir:

28 In opening this brief our Local Union
29 wants to make one thing very clear, we are not looking
30 for labour laws that will be anti-Company, but we are

1 looking for labour legislation where management and
2 labour can sit down and realistically settle our
3 differences. As a Union we feel the main reasons for
4 trouble are injunctions, and especially ex-parte
5 injunctions. This type of legislation lets a few
6 people become dictators. Surely the companies' rights
7 to limit pickets at the entrance to their properties -
8 then legislation should stop strike breakers from
9 working in a strike-bound operation.

10 Most strikes occur at collective
11 bargaining time, and usually take place many months
12 after the old contract date has expired, and after
13 the Union and Company have gone through the due
14 process of law, of conciliation officer and conciliation
15 board, and then if no agreement is reached the Union
16 Bargaining Committee must go back to the local union
17 where at a union meeting the Company's last offer
18 is placed before the membership where the members of
19 the union vote to reject or accept. So as one can see,
20 in general strikes are a desirable feature of any
21 system of collective bargaining, because as unions
22 we feel the right to cease work is a right that should
23 be closely guarded in a Democratic Society.

24 Present laws do in our opinion create an
25 imbalance of power in the Company's favour, especially
26 in the granting of injunctions and ex-parte
27 injunctions when a plant is strike-bound and the
28 Company through an ex-parte injunction limits pickets
29 so that the picket line is ineffective with present
30 day legislation, which does not limit the Company in

1 any form and naturally if a court order of any type
2 is broken the Company then has the right under present
3 law to call in the police who in turn will pass the
4 strikebreakers through the now decimated picket line. "

5 MR. POLLOCK: Could I stop you here
6 for a moment? You say it limits the number on the
7 picket line so it is ineffective so that the police
8 can come in and bring these people in through the
9 picket line. Is it your position and I think it is
10 the position of some trade union people that the
11 picket line is empowered to stop people if they want
12 to stop them from crossing the picket line, or is it
13 just there to persuade them not to cross?

14 MR. BROWN: I think it is in order to
15 persuade them not to cross,

16 MR. POLLOCK: But if they decide to
17 cross, they are free to cross,

18 MR. BROWN: Under the present law they
19 are free to cross, yes,

20 MR. POLLOCK: So the injunction which
21 enables them to cross really doesn't do much to change
22 the law,

23 MR. BROWN: But the thing is if a person
24 arrives at the plant with only two people picketing
25 it seems to them that really the dispute isn't of a
26 major nature. If you arrive at the plant gate and
27 there are 100 people there, then you as an individual
28 will see there must be a major reason for these
29 people and maybe I should reconsider my position from
30 going into that plant and operating it,

1 MR. POLLOCK: So you would say that
2 having a number there does have a persuasive effect
3 other than intimidatory?

4 MR. BROWN: It has a greater
5 demonstration effect, yes.

6 MR. POLLOCK: So would you object to
7 having this number off to one side and leaving the
8 entrances fully free to walk in and drive in so that
9 nobody has to stop at the picket line? You can see
10 the numbers over there and you can see there is lots
11 of support, but there is nobody blocking your access
12 to the entrances to the plant.

13 MR. BROWN: I will agree that the
14 entrances should not be totally blocked, but I don't
15 feel that the membership should have the right to
16 be at the entrance to use a demonstration persuasion
17 if they are really in earnest and usually this is an
18 economic problem that they face and being off to one
19 side -I hope you don't mean off to one side so it
20 doesn't look like they are actually part of the picket
21 line.

22 MR. POLLOCK: Well, they won't be that
23 far away that they won't be identified. I think it
24 is a question that if you have a plant premises and
25 you have a group of 80 standing over there within 100
26 feet or so of the gate but not coming over to the gate
27 every time a car comes up and enveloping it.

28 MR. BROWN: I think the way we can get
29 around it is by people walking by the entrance, rather
30

17 1 than having them off to one side.

2 But really this loses the effect again if people feel
3 they are only a minor part of it.

4 MR. POLLOCK: Well, what do they think
5 those people are doing, waiting for a bus?

6 MR. BROWN: If they are allowed to carry
7 signs and demonstrate in this fashion, then I see no
8 reason for them not being there.

9 " In our opinion no injunctions should
10 be given until the courts are completely aware of
11 the situation and a strike-bound operation should
12 close down until a settlement is successfully concluded,
13 then there will be no need for heavy picketing and
14 the local union bargaining committee and the Company
15 can meet without being under any undue pressure and
16 should meet continuously to settle any dispute.

17 In a democratic society any type of
18 legislation like the present ex parte injunction
19 should be abolished as they have no place in the
20 present society in which we live,"

21
22 "PICKETING

23 Picketing is really a demonstration where
24 workers advertise the fact that there is a dispute
25 between the union and the employer, and to limit a
26 peaceful demonstration of any nature is taking away
27 a basic human right, of freedom of assembly, and of
28 freedom of speech which under the Canadian Bill of
29 Rights all Canadians are guaranteed, (and I would like
30 to submit many Canadians have laid down their lives

1 in foreign lands to ensure other people these rights),
2 The idea of a picket line and picketing by strikers
3 is to persuade other workers to support the strike and
4 to stop the strikebreakers from taking their jobs
5 and from other people working for Companies who are
6 not strike-bound carrying on business and trade with
7 a strike-bound plant,"

8 MR. POLLOCK: This is all by persuasion
9 only. This is to persuade others from taking their
10 jobs and to stop strikebreakers. I think from what
11 you said before to persuade other workers to support
12 the strike and to persuade strikebreakers not to
13 take their jobs and to persuade other people working
14 for companies not on strike to carry on business.
15 It is all persuasion and there is no physical aspect
16 of it.

17 MR. BROWN: No. At this time to limit
18 pickets where the law in no way limits the
19 employers is really strikebreaking in itself, which
20 then makes the Courts of the land on the side of the
21 employers instead of being an Institution of Justice
22 for all it becomes a weapon to be used by employers
23 against workers who have a dissatisfaction or a
24 grievance with their employer and who are showing
25 their true feelings by demonstrating on the picket
26 lines, I will submit later a personal account of
27 picketing.

28 "The courts of the land should make sure
29 that both parties bargain in good faith and that the
30 Act should clearly spell out the meaning of this and

1 heavy penalties should be imposed for violations."

2 MR. POLLOCK: Do you think you can really
3 spell out the meaning of that?

4 MR. BROWN: Yes. I think if a local
5 union bargaining submits to a company a proposal
6 in the present system we have to bargain backwards and
7 forwards and usually a conciliation officer comes in
8 and he seems to break down the union's requests.
9 We never get a realistic approach by the company and
10 I think this is a slowdown in negotiations. They
11 keep asking the union to be realistic. It is not until
12 really you get somewhere in the position and our
13 opinion what is feasible is the final settlement that
14 you really get close to good bargaining, so I feel
15 that both sides should bargain realistically and the
16 company should put forth their ideas of final settlement
17 in early negotiations as well as the union.

18 MR. POLLOCK: Well, do you think that
19 where is the practice is drawn up at the conciliation
20 that if you put all your positions on the table
21 immediately that negotiations began, that that would
22 be in fact the final position that the company would
23 be forced to take?

24 MR. BROWN: Not necessarily. You are
25 talking about monetary and non-monetary.

26 MR. POLLOCK: Yes.

27 MR. BROWN: Usually the non-monetary
28 gets lost. I think the non-monetary aspect should be
29 out of the way first of all and invariably not. The
30 company wants to use the non-monetary to offset the

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1 monetary value of the contract that they are prepared
2 to give and I find in many cases or many times we
3 find that we negotiate that after the contract a
4 lot of people are dissatisfied with the contract
5 and invariably they are dissatisfied as much with
6 the non-monetary as with the everyday contract
7 language as they are with the monetary settlement.

8 MR. POLLOCK: Well, we have been told
9 by a great number of people that a lot of the
10 difficulty is that the company doesn't bargain
11 until the eve of the strike or doesn't get through
12 or come to any firm final agreement until the
13 conciliation process is completed and that the
14 reason advanced for that is that they agree
15 immediately on the union's position and the attitude
16 is that "Oh, you have given us that, Now, let's see
17 what we can get". And invariably every step you
18 go through from one level ^{to another} /the conciliation officer
19 says, "Well, give them a little bit more and we
20 will settle it", and they offer a little bit more
21 and they go up again to the next level and the
22 same thing happens again. So all the way along
23 they have added to what ostensibly was their best
24 offer. And in practice it doesn't become the best
25 until the last minute. And if you were to come
26 in to the bargaining table and say to the union,
27 "This is our first meeting, we are going to give
28 you this and not any more and let's not talk about
29 it", that is not bargaining in good faith, by
30 definition. If you are honest and tell them exactly



1 what you want and what they are going to give you
2 it is bulwarkism and you can't do that, But
3 if you divide up the offer in three different
4 packages and give it to them at each stage and that
5 is bargaining in good faith, At least that is the
6 so-called negotiation,

7 MR. BROWN: Well, it makes a very
8 slow process,

9 MR. POLLOCK: Yes, indeed, but it is
10 a realistic fact of the way negotiations have been
11 carried out in the last 10 or 20 years,

12 MR. BROWN: And I would imagine you
13 would agree that this antagonizes the union members
14 when they have gone long past the negotiation date
15 and this still takes place,

16 MR. POLLOCK: It antagonizes the
17 companies too when they make the best offer
18 initially and they don't accept it and they have
19 to go higher and higher or every step along the
20 way somebody is poking them and saying "Give us
21 more",

22 MR. BROWN: Well, I think with the
23 high cost of living today we can be realistic too,
24 I know in our own union we bargain and shortly
25 after we bargain we are hit with the sales tax and
26 several other things that were totally unaware to
27 us at the time we settled, So, in this area we have
28 to tie in something with the cost of living too,
29 and if the cost of living takes a rise after we
30 have signed it, then at least the union is in a



1 precarious position. But I would also think that
2 the company shouldn't be prepared to allow the cost
3 of living settlement be added to the agreement.
4 I think we could get an easier settlement if that
5 cost of living rise was in there, but when you have
6 to try and gear your contract for three years and
7 not knowing how the cost of living is going to
8 go I think you will agree that the cost of living
9 has spiralled rather than decreased, it leaves the
10 union in a very precarious position too.

11 MR. POLLOCK: I suppose on the other
12 side of the coin if the company could look into the
13 future and predict what its problems were going
14 to be for the next few years, then they would be
15 happy

16 MR. BROWN: I would like to express
17 to you that there is nothing to prevent the company
18 from putting the price up.

19 MR. POLLOCK: Well, there is a public
20 pressure develops in the basic steel industry when
21 it is afoot to increase the prices. Then they do
22 it, but they don't do it without some discomfort.

23 MR. BROWN: They can do it with
24 discomfort, but the opening is there to do it.
25 There is no legislation to stop them from doing it.

26 MR. POLLOCK: Not yet.

27 MR. BROWN: I think in the food
28 industry alone it is a major part of the union
29 employees and in fact everybody's earnings and
30 this is the area where we are hit mostly and not



1 necessarily steel, but at times food prices increase
2 and hit the trade unionists, but he has no union to
3 go back to the bargaining table and say, "Well, you
4 see, we are not making as much as we were making
5 months ago and can we bargain now?", and the company
6 says, "No, there is the agreement and you signed it".
7 I think this has put pressure on the bargaining
8 committees to go for broke, as you might say, to
9 try and cover this, I feel if the cost of living
10 legislation was in there and surely the way the cost
11 of living is going that it would almost be a
12 government legislation to say, "Well, okay, if the
13 cost of living has gone up, then we must increase",
14 I think you will agree then we could start
15 bargaining in a lot more good faith than we do right
16 now,

17 THE COMMISSIONER: What is the average
18 annual wage of the men you represent? I mean
19 approximately,

20 MR. BROWN: I would say --- are you
21 talking about strictly 40 hours a week?

22 MR. POLLOCK: Well, what do they take
23 home? What are they paid through the year?

24 MR. BROWN: I would say the average
25 would be around \$4,000, I would say,

26 MR. POLLOCK: Is that take-home?

27 MR. BROWN: That is gross,

28 THE COMMISSIONER: What does that
29 represent per hour?

30 MR. BROWN: That represents the base

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1 rate which is \$2.00 and the top is \$3.40 an hour
2 but I am not quite sure of the actual figures, I
3 could get them for you, though.

4 THE COMMISSIONER: I wish you would,
5 please. Who is the employer for the majority of your
6 men?

7 MR. BROWN: National Steel Corporation
8 of Canada.

9 "COLLECTIVE BARGAINING"

10 Most labour disputes happen at the
11 time of collective bargaining. We find that the
12 use of conciliation officers and boards create an
13 impossible barrier to thrash out collective agreements
14 the union and the company are able to live with
15 during the lifetime of the agreement, because in
16 reality these boards become 'dispatch riders' between
17 the company and the union and that the two parties
18 whose interests are at stake do not solve their
19 economic and uneconomic problems. In our opinion
20 the best way to bargain an agreement is strictly
21 between the company and the union and that bargaining
22 should precede by 100 days prior to termination of
23 agreement. Most labour disputes and strikes are a
24 direct result of delays in collective bargaining,
25 especially when months have gone by termination
26 date, and the union members become restless at the
27 delay of the formation of a new contract, and
28 frustration and bitterness builds to strike
29 proportions. We feel that the main reason that
30



1 conciliation officers and boards have no place in
2 collective bargaining, who in reality neither work
3 in the plant or manage it, can settle a difference
4 between the two parties concerned,

5 When a union signs a collective
6 bargaining agreement with a company, they are bound
7 by their economic gains for the period of the agree-
8 ment, whereas the company is in no way bound by any
9 collective agreement with the government who
10 represent the people, so surely it is only fair that
11 if unions are expected to honour their agreement,
12 companies should be bound by law before a price
13 increase in their product to go before a government
14 agency to prove their need, this will help to
15 stabilize the cost of living,

16 Grievances that go to arbitration
17 for final settlement are at present done so by an
18 arbitration judge, a union nominee and a company
19 nominee, so in reality the judge settles the
20 grievance. The machinery for setting up these
21 arbitration hearings is very lengthy and time
22 consuming for all."

23 MR. POLLOCK: What do you mean by
24 machinery for setting up the grievance?

25 MR. BROWN: Well, you have to get a
26 judge who is both agreeable to the union and the
27 company and sometimes this doesn't come about
28 unless the Minister of Labour steps in and appoints
29 a judge and this sometimes takes months to set up,
30 and really the issue at hand we feel should be dealt



1 with as soon as possible and I think later on we
2 go into the way that we feel this particular area
3 of management with labour relations could be settled,
4 and that is by setting up a three-man committee
5 that would come into an area and deal with all of
6 the labour-management disputes in that area at a
7 given time of the month. Then you get fast handling
8 of grievances and you don't get a big backlog of
9 grievances. I believe that at the last negotiation
10 of INCO this was a big point in settling the
11 agreement of a backlog of arbitration cases.

12 MR. POLLOCK: Sort of arbitrators on a
13 circuit?

14 THE COMMISSIONER: There are very few
15 of them who are selected.

16 MR. BROWN: Very few, yes.

17 THE COMMISSIONER: Why is that?

18 MR. BROWN: It is the experience that
19 the union feels that his judge isn't particularly
20 fair-minded as regards unions, and the company on the
21 other hand says, "Well, this judge is pretty fair
22 towards the unions or he bends over backwards for
23 the unions, so therefore we won't accept him".
24 There are various judges on both sides that we feel
25 really the idea of an arbitration hearing is to
26 settle the problem at hand as fast as possible.

27 THE COMMISSIONER: Of course it is,
28 but have you had any considerable number of
29 arbitrations before any of these men?

30 MR. BROWN: Our own local is a small

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1 one of 220 employees, but we have had three arbitration
2 cases in the last four years. We had three different
3 chairman,

4 THE COMMISSIONER: And you were
5 satisfied with all of them in the sense that they had
6 fairly good judgment?

7 MR. BROWN: I can't speak for all of
8 them, but I think possibly one case was poorly handled.
9 It was an accident case where the road was widened
10 after the accident and we felt that the judge didn't
11 take this into consideration and he was on the
12 property the day before and was shown the scene of
13 the accident, but what he didn't visualize was when
14 the accident occurred the road was a lot narrower
15 than when he actually saw it before the hearing, and
16 we feel that in this case there certainly was a lot
17 of shall we say extenuating circumstances that
18 didn't give this particular union member, who lost
19 his job, a fair hearing.

20 MR. POLLOCK: Do you keep a batting
21 average of all the judges who go around and you can
22 see he is a good one or he is a bad one?

23 MR. BROWN: I think both the unions
24 and the companies do, yes.

25 MR. POLLOCK: If you ever gave that
26 responsibility to lawyers or clients you would never
27 have any judges.

28 MR. BROWN: Well, I think the Department
29 of Labour should set up these judges and I think
30 both the unions and the judges would agree on it



1 right after, A few gentlemen consider the hearing
2 on one day and each one of them gives an individual
3 reason as to why he thought either the company's
4 position was correct or the union's, then I think
5 they would both believe they were getting a fair
6 hearing, and honestly a lot of trade unions don't
7 completely believe in the area arbitration that they
8 get for their hearing,

9 THE COMMISSIONER: Just as a matter of
10 curiosity did you ever receive an adverse decision
11 which you afterwards felt was probably right?

12 MR. BROWN: Well, at one time we did
13 feel there was an adverse decision made, and after-
14 wards, possibly ^{after}/reconsideration we could say was
15 partially correct, but I think the trouble is, your
16 honour, that in some cases where a man is discharged
17 we feel that the courts ^{should}/have the right to say
18 although this man is partially wrong or partially
19 right, that unless you spell it out in the collective
20 agreement that you give the judge the right to change
21 this agreement he must rule in black or white if
22 the man is 100% right or 100% wrong, Now, I feel that
23 possibly the fairer way to do it would be to shall
24 we say alleviate a certain amount of doubt, In other
25 words, if the man has been off two weeks this would
26 be a penalty rather than a complete discharge,

27 MR. POLLOCK: Some of them do that,

28 MR. BROWN: Provided you have the reason
29 for this under the collective agreement, Under our
30 present agreement, he has to find him either



1 completely right or completely wrong and I think
2 this is an area of injustice and that it could be
3 dealt with outside collective bargaining,

4 THE COMMISSIONER: Do you want a sort
5 of contributory responsibility?

6 MR. BROWN: I would say so, yes,
7 I think it is a very harsh one on anyone probably
8 to say that this man is 100% right or 100% wrong,

9 THE COMMISSIONER: The case you have
10 in mind isn't a question as to whether or not he was
11 justifiably dismissed,

12 MR. BROWN: Yes, I would say that,
13 The union still contends in the particular case of
14 the accident that this man was really illegally
15 dismissed because we feel the marks
16 on the dirt road proved beyond a shadow of a doubt
17 that the road wasn't wide enough to take the piece
18 of equipment,

19 And this is why we say that we feel
20 that this type of setup with three people doing it
21 would be fairer than the present system where we
22 have a company nominee who is going to go for the
23 company and a union man for the union and you are
24 putting the onus on one man,

25 THE COMMISSIONER: Do they tend to
26 become more satisfactory as their experience goes
27 on?

28 MR. BROWN: It wouldn't be fair for me
29 to answer that, I wouldn't want to say whether
30 they are or not, I think the judges seem to set a



1 pattern themselves and they rule the same way each
2 time. This is why some of the companies don't like
3 them and the unions don't like some of them,

4 MR. POLLOCK: Well, some of them might
5 find for the union once and the company the next
6 time,

7 MR. BROWN: Well, I think this is not
8 fair because the time they find for the company
9 might be the departure of a man so we are not
10 really getting a true representation at this time,

11 MR. POLLOCK: Well, there are many
12 cases in which the judgment in a civil case is
13 reserved for a long time because they involve very
14 difficult problems and they have to consider a lot
15 of material and they may not be able to do it
16 immediately off the bench. If that is so, then it
17 is a problem common to all problems and should be
18 given consideration,

19 MR. BROWN: We feel that waiting
20 around for an answer is not really necessary in
21 most arbitration cases usually you wait quite a
22 while for an answer. If the guy is on discharge
23 it is pretty hard for the union employee. If he
24 has been discharged, he goes a little further down
25 and says, "I was discharged for some reason",

26 THE COMMISSIONER: What you say
27 there is that you would trust three independent
28 persons,

29 MR. BROWN: I think so, yes,

30 THE COMMISSIONER: Why wouldn't you trust



1 one?

2 MR. BROWN: Well, as you said yourself,
3 some days it is one for the union and one for the
4 company,

5 THE COMMISSIONER: You say that neither
6 the company nor the union has anything to do with
7 it. They are independent men. Now, I am glad to
8 hear you say that because I think you are one who
9 isn't terrified by the appearance of what we call
10 arbitration. The reason I mentioned it is that
11 in Australia and we might be able to learn a few
12 things from Australia. They have what they call
13 commissions who are well trained and are permanent
14 officers of the court and who have allocated to
15 them certain groups of industries and they try to
16 get at these disputes at the very beginning and
17 to exercise their judgment in the quickest possible
18 manner. Now, it may be that they can't do that and
19 then it becomes a formal hearing before that
20 commission. If either side is dissatisfied he
21 can appeal to the full court and I say three. That
22 way if they are able to show such as you suggest
23 here in the case you mentioned that the commission
24 haven't taken into account some vital feature
25 which he should have, then they can modify his
26 agreement. Now, you evidently are not fearful of
27 that sort of thing.

28 MR. BROWN: No, I am not fearful of it,
29 but I feel if a person is innocent that they should
30 be given a fair hearing, and I feel that it is one



independent
1 way that we could achieve it by having three people /
2 come into an area so that there would be no possible
3 reason for the union or the company to say they
4 are in collusion on this, Three independent people
5 give very valuable decisions.

6 "It is especially hard on the union
7 member particularly if this is a discharge grievance,
8 Many times arbitration cases are awarded in the area
9 of management rights unless the union can prove
10 without a shadow of a doubt their collective
11 agreement was violated, they have a very little hope
12 of getting a fair hearing under the present system,
13 Because management assumes all of the rights and
14 privileges of the working place unless the union has
15 specifically stated otherwise in the collective
16 agreement,

17 In our opinion a more just way of
18 settling arbitration cases would be to set up a three-
19 man committee, none of whom would be connected in
20 any way with the union or company, that they come
21 into an area to hear all arbitration cases both for
22 union and company and the decision be handed down as
23 in a civil court procedure.

24 Respectfully submitted by myself on
25 behalf of Local 5500, the United Steelworkers of
26 America,"

27 THE COMMISSIONER: Why shouldn't
28 any group of people who cause illegal or unlawful
29 damage to another pay for that damage?

30 MR. BROWN: I think we did in many cases



1 with individuals and it wouldn't really be fair,
2 If there isn't any violence

3 MR. POLLOCK: No violence, but what
4 about damage to property?

5 MR. BROWN: Well, who are you going to
6 hold responsible, the individual or the whole union?
7 I think it is totally unfair if I have an accident
8 in the street,

9 THE COMMISSIONER: Well, now just a
10 moment, I am assuming that the officers of the
11 union have been active and they have supported this
12 mood and it results in heavy damage. For instance,
13 I remember in 1946 at the Ford plant and I am not
14 sure of the year, because it may have happened
15 afterwards. At one of the strikes in the Ford plant
16 they refused to allow anybody in to keep the steam
17 on the boilers with the result that about \$200,000
18 worth of piping which froze, were ruined. What
19 would you say about that to a union that participated
20 in that refusal to preserve the plant upon which
21 their livelihood depended?

22 MR. BROWN: Can I ask a question here?
23 I am not familiar with the strike, Was this during
24 the collective bargaining?

25 MR. POLLOCK: It was a legal strike,

26 MR. BROWN: So the company knew a legal
27 strike was going to take place,

28 MR. POLLOCK: Yes, and they tried to get
29 its employees in to keep the fires burning and the
30 union and its officers refused to let these people



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1 into the plant,

2 MR. BROWN: They probably knew the
3 day the strike was going to start,

4 THE COMMISSIONER: But the strike was
5 already on,

6 MR. BROWN: Wouldn't it be possible
7 for the company to make sure

8 THE COMMISSIONER: How could they make
9 sure? They had to have men and they would want the
10 men who know the plant, The plant is as valuable
11 to the men as it is to the company, Each one wants
12 to renew the activities of the work and wages and
13 what you call the profits, Now, why shouldn't the
14 people who caused that damage pay for it?

15 MR. BROWN: Well, I don't know the
16 particular occasion, but I feel that if a breakdown
17 in collective bargaining takes place that both
18 parties know the time the bargaining is going to
19 cease and the picket line is going to go up and the
20 time to safeguard is before it happens,

21 THE COMMISSIONER: Well, what do you
22 think the picket line is doing when it prevents the
23 preservation of the plant, Do you think they have
24 any authority or any justification for preventing
25 that? It seems to me to be so absolutely absurd
26 an idea that it doesn't admit of any discussion,
27 You are all interested in preserving
28 in some cases what the contract provides, that of
29 course the plant will be preserved,

30 MR. BROWN: I am presuming that people



1 are left in the plant for this purpose,

2 MR. POLLOCK: But they can't live in
3 there forever and ever,

4 MR. BROWN: This was a strike of longer
5 duration, I imagine,

6 MR. POLLOCK: Yes, but the point is , , , ,

7 MR. BROWN: I don't see any reason why
8 if the plant is shut down correctly why there should
9 be any unnecessary damage,

10 MR. POLLOCK: Well, you can't drain the
11 toilets in the middle of winter and they are going
12 to freeze unless the building is heated,

13 MR. BROWN: Well, I would say in these
14 circumstances provided it doesn't continue with the
15 normal operation of the plant,

16 MR. POLLOCK: They weren't operating
17 the plant at all,

18 MR. BROWN: There was no reason to stop
19 that,

20 MR. POLLOCK: If there is no real
21 reason to stop it, then there is a reason to award
22 compensation,

23 MR. BROWN: Provided we could assume
24 that it was the executives which caused it and not
25 the individual. It is a very hard thing, and I think
26 we will all agree that when people go on strike , , , ,

27 THE COMMISSIONER: One of the very
28 large unions in this country accepts that
29 proposition that they ought to pay for the damage
30 as well as the individual or any other group,



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1 MR. BROWN: I think you will agree that
2 it is very hard to make a union as a whole completely
3 responsible for the irresponsible acts of two people.

4 THE COMMISSIONER: That is another
5 question. I just put that to you. I think you have
6 authority as to whether it should apply and throw
7 the onus on the union to show it has done everything
8 to prevent such a thing, that is another question.

9 MR. BROWN: Well, I would like to submit
10 during our last negotiations when we finally agreed
11 upon the settlement that our company chose to change
12 our collective agreement with the 18 clauses and
13 force the strike position in our plant and that that
14 plant was quite successful all afternoon in operating
15 that plant.

16 THE COMMISSIONER: Well, I should think
17 you would be one of the first to say "Of course, that
18 plant must be preserved", because when you strike you
19 contemplate returning and you resent the strikebreaker
20 because you think he is sitting in your chair or he is
21 standing at your place at the bench. That is the
22 normal reaction, yet you want to destroy that place.

23 MR. BROWN: No, sir, I don't want to do
24 that.

25 THE COMMISSIONER: Then you will permit
26 its preservation.

27 MR. BROWN: Yes.

28 THE COMMISSIONER: That's all I wanted to
29 ask you. Now, it is none of my business and you do what
30



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1 you want to about your own position, but I think you
2 injure yourself when you don't frankly say, "Of course,
3 we shouldn't think of doing such a thing as that".

4 MR. BROWN: Well, as I said, during our
5 last negotiations we had reason to have a sit-down
6 strike at our plant on the change in the agreement and
7 while we were down all the production employees still
8 produced and that plant didn't lose one point of
9 production.

10 THE COMMISSIONER: I am not talking
11 about that.

12 MR. BROWN: It is a very hard thing to
13 define whether a certain individual should be or the
14 whole union should be responsible for what could
15 possibly be the work of a few individuals. I think it
16 would be very hard for the court to decide whether the
17 union is at fault or an individual.

18 MR. POLLOCK: All right. Thank you very
19 much for bringing us your presentation, Mr. Brown.

20 Now, the International Union of Mine,
21 Mill and Smelter Workers.

22 MR. SMITH: Kenneth Smith, President of
23 the International Union of Mine, Mill and Smelter
24 Workers (Canada), and with me is Mr. William Hall who
25 is our legislative counsel and compensation officer,
26 for Ontario. I had expected Mr. Kennedy to be here,
27 but unfortunately he is ill today and could not be
28 here.

29 MR. POLLOCK: I can tell both you
30 gentlemen that we have read the brief and it was very



1 lengthy and detailed and you are free to present it
2 in any manner that you think would lead to the best
3 discussion of the points that you raise.

4 MR. SMITH: I will be very brief here.
5 The brief is comprehensive and may have omitted a
6 couple of things that we feel important. I realized
7 as I walked into this courtroom today that we didn't
8 say anything about picketing, the charging of unlawful
9 assembly, which we think should never be used in labour
10 disputes and it was in one of these courtroom here
11 that I was found guilty of unlawful assembly and I
12 realized that we hadn't mentioned it in our brief.
13 I also want to say that although not attending
14 continually we attended one or two sessions of the
15 hearings and, of course, we continue to see the press
16 on it and I think there is some concern and remarks
17 attributed to one or the other of you gentlemen and also
18 I find it that ^{from} some of the press reports that I would
19 compliment you on for your observations. I was
20 particularlay interested in a remark attributed to Mr.
21 Pollock, I think about April the 18th, which we thought
22 a very astute observation when he said that an employer
23 wants the best of all possible worlds.

24
25 Of course this is true, I think, in many
26 respects, and he probably knows this from my brief
27 that our union is a little unique in this regard that we
28 operate in areas very often quite remote, quite remote,
29 that is, we have many operations in which we are the
30



1 union where the closest policeman would be 100 miles
2 away, and then sometimes only by aircraft, so the
3 union consequently becomes everything as far as they
4 are concerned. We are the representative of the men
5 from the time he gets up in the morning until he goes
6 to bed at night. And because of this we have
7 experience of unusual difficulties. Rather than treating
8 a man under the civil law the company will very often
9 try to be the law themselves and I mean by that that
10 here in Sudbury when a man goes home at night and
11 he imbibes too freely and does some damage he will be
12 dealt with in a civil court. Whereas, in some of the
13 operations where we are that isn't what happens.
14 We find that he is discharged the next morning because
15 everything is company property and we have problems
16 in that area. As our brief indicates, we have not
17 as a union been very much hampered with injunctions.
18 We have had a few, I suppose, but in the main in our
19 discussions with management we have entirely been able
20 to work out arrangements. It seems that our industry
21 at the present time is difficult enough to get men to
22 go to work underground where there is no picket line,
23 so it is almost impossible where there is one and I
24 think probably this is the reason that we have not had
25 the problem with injunctions. As a matter of fact,
26 we have generally been able to work out even where
27 the law might not have agreed where picket lines should
28 be placed and again

29 THE COMMISSIONER: Doesn't the mining
30



1 operation more or less cease when the men strike?

2 MR. SMITH: This is correct.

3 THE COMMISSIONER: What is the need of
4 the picket line?

5 MR. SMITH: The men are alarmed that
6 somebody might always go in.

7 THE COMMISSIONER: Well, what if it
8 does? That won't affect the effectiveness of the
9 strike.

10 MR. SMITH: I may feel that way, but when
11 the men are on strike they are concerned about who
12 goes into the mine.

13 THE COMMISSIONER: How many men would be
14 in an ordinary operative mine up in this district, a
15 thousand?

16 MR. SMITH: In this district it would
17 be more, I would imagine the Creighton Mine

18 THE COMMISSIONER: Well, take your own
19 region. What would be the average number not in a huge
20 operation like the nickel company, but take the ordinary
21 mine.

22 MR. SMITH: From 300 to 500.

23 THE COMMISSIONER: Well, you couldn't
24 replace those people within such time as you would
25 probably come to a settlement of the disputes.
26 Therefore, you have accomplished your strike the moment
27 it is made. You have ceased that operation and that
28 is what you set out to do.

29 MR. SMITH: This may be theoretically
30 correct, but the men still want to have picket lines for



1 information purposes and for the purpose of preventing
2 anyone from going in.

3 THE COMMISSIONER: Well, what right
4 have they to do that if the objective is to close
5 down the work?

6 MR. SMITH: Perhaps I should expand
7 and develop a little more, that you had when the other
8 gentleman was here. It is customary, your lordship,
9 in our union when a strike may become necessary, and
10 I don't want to suggest we have had that many of them,
11 that we offer to maintain the operation. This has been
12 customary in our union, and this is not always pleasing
13 to the men.

14 THE COMMISSIONER: You mean the
15 operation or the preservation?

16 MR. SMITH: The preservation and it may
17 come as a surprise to you ⁱⁿ /view of the remarks made by the
18 other man where management ^{has} /on occasion refused that.
19 That is to allow the men who are in the union to do
20 the maintenance work.

21 THE COMMISSIONER: I never suggested that.
22 You misunderstood me.

23 MR. SMITH: No, no, but I am saying it
24 may surprise you to learn that they do on occasion.
25 Management does on occasion refuse to allow the men
26 who normally do maintenance work to continue to do it
27 during the period of a strike.

28 THE COMMISSIONER: Who do they get?

29 MR. SMITH Supervisors.

30 MR. POLLOCK: Are they afraid of



1 sabotage?

2 MR. SMITH: If they are, there is no
3 reason for it. They never had any satisfactory reason
4 to think that.

5 MR. POLLOCK: Well, is that the reason
6 they have ascribed to it?

7 MR. SMITH: I have never had an answer.
8 They merely say that if you strike we are going to
9 maintain the plants ourselves, and they have refused
10 and on more than one occasion where we have subscribed
11 and it is not a simple matter as that. You know the
12 question arises as to what do the men get paid who
13 continue to do this work? There has ceased to be an
14 agreement and I had a strike here a year or so ago
15 where we were doing the maintenance and the strike went
16 on until about the middle of August and Labour Day came
17 along and the agreement had provided for Labour Day as
18 a statutory holiday and when it came during the strike
19 the company said, "No, we are not paying for the
20 statutory holiday" and the men had been working
21 regularly. Well, you can imagine the provocation and
22 I think it was a case that the company wanted to
23 provoke us into a position and have the men walk off,
24 which the men did, incidentally, and it took me two
25 days to get them back. The company at that point went
26 for an injunction to restrain picketing and with the
27 hope of putting supervisors on this job and to their
28 everlasting credit the supervisors refused to do the
29 work. Now, had we refused originally, otherwise I am
30 sure the supervisors would have done it. But it is not



1 always that simple a matter and I wanted you to
2 understand that our union, as we have indicated, believes
3 the plant should be maintained during the strike
4 against damage so that when the strike is settled the
5 men and not just a few of them can go back and do
6 their work at the plant itself. Now, while I am
7 talking about injunctions I think we did say that we
8 want to give you a copy of a booklet, and this regards
9 injunctions, but not between labour and management.
10 Here in this area there was a dispute between the
11 workers themselves and the representatives. Mr.
12 Malcolm Robb, the counsellor, who was engaged by our
13 union where the courts we think were abusive we would
14 like to give you this to indicate the ease with which
15 the injunctions were obtained in this case. Now, while
16 we haven't been hampered by injunctions in the
17 disputes with management they have certainly had
18 experience. You may have noticed that our brief puts
19 considerable emphasis on the importance of what we
20 call the voluntary use of the Act. We are very
21 conscious of the role that the Act has played and
22 we are also old enough to remember the strikes which
23 took place around 1946 were struggles for recognition
24 of the union, particularly in the big industries such
25 as ours and the auto industry. But we think we have
26 grown up now and that both sides could get along with
27 less, not more law, to govern the working of the labour-
28 management relations. We believe we have advanced enough
29 that we should be able to do that. As far as the
30



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1 conciliation process is concerned perhaps it is useful
2 where people can't talk to one another but in the
3 main, although there have been occasions where the
4 lines of communication were bad, in the main we have
5 found that we could sit down and communicate and get
6 across to the employers, and vice-versa. Because of
7 this we feel that the conciliation process is standing
8 in the background and is hampering rather than aiding
9 settlement. I would say quite frankly that we are
10 not going to compromise our position in bargaining,
11 knowing that the company would move into a conciliation
12 process and I think the same thing applies to the
13 company. I think the company is reluctant and we cite
14 one or two cases where it went for months and it
15 wasn't actually until we got to the point of a strike
16 vote that an offer that could be entertained was made
17 by the company. In fact, in one instance no offer
18 whatsoever was made and the company asked --- and I
19 don't think this is an abnormal situation --- that the
20 union modify its demands before the beginning
21 of them whatever so that they would not be in a position
22 of compromising themselves before conciliation.

23 MR. POLLOCK: How do you compromise
24 yourselves before conciliation, by bargaining in good
25 faith?

26 MR. SMITH: Well, we say the companies
27 don't bargain and they say the same thing, I suppose.
28 This is the problem. If you bargain in good faith,
29 let me put it this way. I think that if neither party
30



1 saw something standing behind, that labour would be
2 more inclined to modify their demands originally and
3 go to their membership and even fight with their
4 membership and say, "You are not to be ridiculous in
5 your demands". If they knew --- the same thing
6 applies to employers --- if they knew they might
7 face the threat of a strike that they might might be
8 more realistic in their first and original offers
9 to the trade union. Both sides knowing that some third
10 party is going to come along and if we said 20¢ an
11 hour and the company said 10¢, then 15¢ is going to be
12 the saw-off point and nobody is going to move off 10
13 and 20.

14 MR. POLLOCK: Even temporarily?

15 MR. SMITH: There is no way of doing it
16 temporarily. Once it is out of your mouth it is on
17 the table.

18 MR. POLLOCK: And they are liable to
19 accept it and you don't want them to accept the 15¢.

20 MR. SMITH: The danger is not that they
21 will accept it, but the danger is they will go to a
22 conciliation officer and say they have an offer from
23 you.

24 MR. POLLOCK: If that information wasn't
25 available to the conciliation officer?

26 MR. SMITH: But once you have said it . . .

27 MR. POLLOCK: But there are settlements
28 in negotiations that go on between two parties in any
29 litigation that aren't the subject of comment in court.
30



1 MR. SMITH: I realize that is so when
2 you are dealing with 1,000 or 2,000 workers who want to
3 know that the trade union leader can't make a
4 company an offer that he is hiding from those workers.

5 MR. POLLOCK: But surely when you get
6 down to the end of the line you have got to have some
7 authority to make the offer at that stage or we will
8 take 15¢ perhaps.

9 MR. SMITH: This is where the judgment
10 has to come in and that is the whole point that I am
11 making and certainly the trade union leader and, I
12 suppose, the company official at that point has to know
13 that he is within the settlement grasp.

14 MR. POLLOCK: But if you are prepared to
15 take a hypothetical case and 15¢ might be a reasonable
16 settlement at the end of conciliation. Why wouldn't
17 you take the 15¢ at the time of bargaining if you
18 won't accept it you just wipe it out. You say 15¢ and
19 they say no and then you say, "Okay, we will go back to
20 10¢ and 20¢.

21 MR. SMITH: I wasn't suggesting that 15¢
22 was acceptable. That is an oversimplification of it
23 because there are many other things too.

24 MR. POLLOCK: It is acceptable if that is
25 all they are prepared to offer you. If they offer you
26 15¢ at the final step at the point of no return, then you
27 are prepared to take it and you can sell that easier
28 than if it happened to you earlier on.

29 MR. SMITH: I am suggesting that 20¢ is
30 realistic or maybe 17¢, but that everyone knows with a



1 conciliation process coming in that they may compromise
2 at 15¢.

3 MR. POLLOCK: So that no bargaining takes
4 place until after conciliation.

5 MR. SMITH: Very often unfortunately
6 that is the situation.

7 MR. POLLOCK: Why does bargaining take
8 so long? Why don't you just sit down and say, "Well,
9 now, we can't bargain, so let's go to conciliation".

10 MR. SMITH: There are so many elements
11 go into a conciliation that they are all different.

12 MR. POLLOCK: It has to be a three-act
13 play, in three stages.

14 MR. SMITH: Under the present situation
15 I think that is what happens. Of course, there are
16 more things involved than that. There are other
17 settlements to consider. I am aware of that and I am
18 sure you are. As you notice in the brief, and knowing
19 what Mr. Lebelle had to say this morning with regard
20 to company access to the property, we are another
21 union that has that problem and we think that the Act
22 should be very specific on the rights of trade union
23 officials that they should not be denied. Perhaps
24 under the common law, if you were ^{to} use it, taking the
25 time into it that you can get it it is time-consuming.
26 I can remember when the Kitimat operation was built
27 and they couldn't get transportation, they finally had to
28 issue a writ to compel the steamship company to sell us
29 tickets to Kitimat. So we think that the Act should
30 make much more clear the rights the worker appears to



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1 have, but can't exercise because of the trespassing
2 law.

3 MR. POLLOCK: How often do you think
4 and I appreciate the problem to the company point
5 of view having people coming on every Monday,
6 Wednesday and Friday and every week constantly
7 meeting with the employees and there might be some
8 disruption on your operations work.

9 MR. SMITH: Well, we never suggested
10 we get into the company's operation. All we ask
11 for is access to their living quarters which very
12 often are closely associated behind a fence
13 where the other operations are. We are not
14 suggesting and I don't know what Mr. Lebelle felt
15 in that regard, but all we have ever proposed is
16 that if a bunkhouse is inside the company fence
17 that that worker has a right to see a trade union
18 official and he shouldn't be barred at the gate.
19 They may even send someone in with you to make sure
20 you don't go in on the operation.

21 MR. POLLOCK: Of course I suppose you
22 would have to have some provision with some of the
23 individuals living in those premises who
24 don't want to say that you can't barge into their
25 premises. You couldn't go into their house if they
26 didn't want you, and this is a company house.
27 Now, that could be ironed out as far as the union
28 hall is concerned.

29 MR. SMITH: That is right, we have no
30 problem there. If the men don't want to see the



1 union representative, they just don't want to see
2 him. I don't think it would be very wise to push
3 ourselves onto someone who didn't want to see us.
4 I think that every official should have the right
5 to say no.

6 MR. POLLOCK: Well, this only applies
7 in northern Ontario, I imagine, where there are
8 company --- I don't know if there are any company
9 towns any more, but operations that are far from
10 the beaten path.

11 MR. SMITH: Yes, they are mostly in remote
12 areas. Now, while we are complaining about certain
13 things I think the area we would like to see this
14 Royal Commission address itself to is the
15 changes that we think are taking place in the
16 relations between management and labour and
17 particularly that which Mr. Justice Freedman
18 addressed himself on the runthrough, and of course,
19 I am sure you have seen that report. That is the
20 area of the inherent or residual rights of
21 management. In just about every collective agreement
22 there is contained management's rights. Now, Mr.
23 Justice Freedman points out that the company argues
24 if we have taken any of their rights away, then
25 they maintain all those except those spelled out
26 in the collective bargaining agreement. I think evidence
27 that is before the Freedman Report, the railroad
28 brothers were asked why they didn't take a strike on
29 the runthrough question at the time of the agreement
30



1 before, I thought the answer was classical, that
2 extremely
3 it would be / difficult to get workers to strike
4 about something that might or might not occur.
5 This was so and the same thing applies to the clause
6 on management's rights that are contained in all
7 agreements. Now, just about every time I go to
8 negotiate anywhere or any of us go the workers
9 themselves complain and they want us to open up
10 this area, but it is such a broad area that in
11 ^{it} opening/generally we have resisted because we don't
12 know where it may lead. But I think that
13 certainly on the question of material changes at
14 least they should not reside with management, but
15 management should at bargaining time if it is
16 their intention to make changes and our position
17 also

18 THE COMMISSIONER: What do you mean
19 here? Do you mean bargaining whether or not changes
20 were to be made?

21 MR. SMITH: I mean when the company
22 proposes to make material changes in their operation
23 that have not been provided for in the collective
24 bargaining agreement we think the agreement should
25 at that point be opened up and that the right to
26 strike should be unimpaired.

27 THE COMMISSIONER: I understood you to
28 say that taking that step is ^anegotiable
29 matter that could be worked out. Do you make any
30 distinction between changing that step and the



1 bargaining over the consequences?

2 MR. POLLOCK: What is the impact? Are you
3 saying that we ought to tell the company, "No, you
4 can't use that machine", or should you tell the
5 company when you use that machine what you should
6 do about employees?

7 MR. SMITH: That is right. Mr. Freedman
8 said that these changes should only be made at
9 the bargaining time and we think particularly in this
10 day that when agreements are tentatively longer
11 that perhaps the changes should be made but the
12 right to strike should be included. . . .

13 MR. POLLOCK: The right to strike over
14 what? Say, for example, the employer has a machine
15 that changes the operations so that it only requires
16 50 instead of 100 employees. Now, do you suggest
17 that there ought to be some opportunity in the union
18 to say, "No, you cannot employ that machine because
19 you would displace these people"? Or do you say
20 that we must get together and negotiate how these
21 50 people are going to get laid off or in what order
22 or how the impact of this change will be modified
23 and they will be provided with so much money or
24 retraining or any of these other things? Is that
25 the position you are taking?

26 MR. SMITH: Yes.

27 THE COMMISSIONER: That is to say that
28 you don't take the position that they too have the
29 right to say no, that step cannot be taken. You say
30 that you may take it if you want to, but now we are



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1 concerned with the consequences.

2 MR. SMITH: Subject to negotiation, yes.
3 You see, this question of the right to strike during
4 the agreement I think we could give an example. The
5 employer has always got the right to shut down.

6 MR. POLLOCK: And the employee always
7 has the right to quit.

8 MR. SMITH: Of course as an individual.
9 But he and his employer can't change the agreement,
10 and in the case of Britannia Mines we signed an
11 agreement in August and two months later the company
12 comes along and says, "The price of copper has fallen
13 and either you will take 10¢ an hour reduction in
14 your wages or we will shut the property down". So,
15 in fact they are negotiating a changed condition.
16 And yet had the price of copper gone up 10¢ a pound
17 we would not have had the right under the collective
18 agreement to open that contract.

19 MR. POLLOCK: That is not an uncommon
20 thing to occur the other way around where extra
21 pressure has been put on them.

22 MR. SMITH: We have opened up and made
23 increases, that is true, but that is because of....

24
25 I really don't see a problem with this and I think
26 that people having the right to do something doesn't
27 always means that it is going to be exercised
28 they do have that right in the event that they
29 want to use it.
30



1 MR. POLLOCK: Well, it just makes the
2 other side a lot happier if they don't have that
3 right. It is a little more secure. Would you settle
4 for arbitration for the impact?

5 MR. SMITH: No. We don't know of any
6 better solution for use in these disputes
7 that arise during the life of an agreement that are
8 provided for in the collective bargaining agreement.
9 We do not feel that in the question of material
10 changes that arbitration is satisfactory. We feel
11 that Mr. Justice Freedman... that we
12 should be able to deal in these cases with our
13 rights unimpaired.

14 MR. POLLOCK: They would have to be pretty
15 significant changes to provide for that. To an
16 individual whose earning power is slightly
17 decreased by a different working arrangement, that
18 is technological changes. You don't contemplate that
19 kind of thing.

20 MR. SMITH: Right. I think we can take
21 care of that by the arbitration process. For
22 example, we signed the agreement not very long
23 ago with the company that provided the rate for D9
24 Cat and another one for D6, and a few days
25 after we signed the agreement they sold the
26 D9, and they put the 6 on doing the same work and
27 we had a lot of trouble there. Those things can
28 be taken care of by arbitration. And I think that where we
29
30



1 negotiated the contract and not one word has been
2 said about the price of board a man is going to pay
3 and not a word has been said about the rent the man
4 is going to pay for housing. The day after we
5 sign the contract everybody gets a notice that
6 their rent has gone up and we just think that this
7 is

8 MR. POLLOCK: Well, why don't you put
9 that in the agreement?

10 MR. SMITH: Frankly, we are, but this
11 is an extremely difficult area, I might say, and
12 I am sure you realize that. For example, in some
13 places where everybody is single and living in a
14 bunkhouse and we can negotiate on wages based on
15 rents, et cetera, but where it is 50% married
16 and 50% single it is a little more difficult.

17 MR. POLLOCK: Well, the difficulty that
18 arises, as you pointed out to us, in the technological
19 change opening in the contract business, is that
20 contracts are arrived at by negotiation and
21 bargaining: "You give me this and I will take that
22 and we will trade this for that and we won't agree
23 or you give me this and I will change the price
24 on that". All these other bargains are struck
25 and hammered ^{out} at the agreement. Now, you may very
26 well bargain away something. You may say, "Okay,
27 contracting out doesn't look very good or important

28 at this time, we will take an additional
29 S. U. B. benefits." Then all of a sudden contracting
30 out becomes very important because they start

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1 contracting out. You say, "Well, let us open it
2 up again and take back your S.U.B., we want to start
3 again".

4 MR. SMITH: No, but I think where something
5 has been bargained away then that would not be an
6 area for opening.

21 7 MR. POLLOCK: You would have to take a
8 shorthand report of the whole negotiations and
9 any time anyone whispered something you would have
10 to say, "Well, that was bargained away" and

11 MR. SMITH: But we never had a problem
12 like that where that question has arisen. We have
13 always known what to bargain for and what to
14 bargain away. You see, there is the other side of
15 this thing and I don't know what the effect would
16 be, but what I am saying here is that although I
17 should not have to make provision final and
18 binding settlement in this area through arbitration
19 or such other means because the agreement can take
20 care of that and I believe in the United States
21 where there is no law that most of the agreements
22 do provide for arbitration because the people
23 involved have found it to their advantage and
24 nobody wants to strike over every little grievance,
25 I don't think, and I understand down there that
26 many of the companies down there will not agree to
27 both the right to strike and the other side. Now,
28 in the situation that I mentioned for example of
29 the housing, a fellow wakes up and he finds out
30 his rent has been put up and they all get outside

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1 and say, "We are not going to work this morning", and
2 it takes them two days to get in there. Now, the
3 fellow has not only violated the collective
4 bargaining agreement; he has broken the law as well,
5 and we don't think that should be. The employer
6 would say, "Why don't you put this into your
7 agreement?", and I think we would be more successful
8 in covering those areas of our agreement. . . .
9 I really think we could negotiate.

10 THE COMMISSIONER: Will you try to
11 anticipate things that probably will occur, don't
12 you?

13 MR. SMITH: Yes, your lordship, we
14 certainly do. Sometimes we are successful and
15 sometimes we can see indications that certain
16 things are taking place, but it is pretty hard to
17 read the mind of a company if they choose to hide.

18 THE COMMISSIONER: Well, you can insist
19 on a declaration that they have no project in mind
20 that has not been discussed or even foreseen.

21 MR. SMITH: Well, it would be a difficult
22 thing to get from management. . . . With
23 agreements running up to three years now we cannot
24 always foresee these things. By the way, I notice
25 realizing your interest in the arbitration process
26 as applied to Australia we have a union in Australia ---
27 the Coal and Shale Miners' Union of Australia and
28 we haven't done any great research on it, but through
29 them I was able to get a copy of a booklet called
30 "Penal Colony and Penal Power". If you haven't got



1 the book I would be very happy to send it to you.

2 MR. POLLOCK: No, I have never seen that
3 book.

4 MR. SMITH: It is a comprehensive study.

5 THE COMMISSIONER: Of course, these
6 matters aren't / ^{true} arbitration. These matters would
7 be settled by a court.

8 MR. SMITH: This is made very clear in
9 this. Now, I found the book very interesting, although
10 after reading it I was not persuaded at all that
11 the same process would be advantageous here. As
12 a matter of fact, I think it would be extremely
13 difficult to have, if I understand it correctly,
14 the Canadian people accept the terms that they have
15 in Australia.

16 THE COMMISSIONER: Well, on that
17 particular feature I don't see that there is any
18 biological difference between the Australian and
19 the Canadian, physical or intellectual. The
20 conditions of life are not to be distinguished. They
21 have a better climate perhaps than we have. We have
22 a hardier climate so that when you say they are not
23 subject to the conditions I agree that we couldn't
24 lift up their apparatus or arrangement and set
25 it down here, but we might take the single feature
26 which is in the making of awards by courts and not
27 by arbitrations. The difference is clear.

28 MR. SMITH: Except that they grew up
29 under this system and they have had it for many, many
30 years.



1 THE COMMISSIONER: That is true, but they
2 had to start it.

3 MR. SMITH: And we grew up under the
4 American process and I feel, if I understand the
5 drastic change that would take place, and I must
6 say that there are a great many of the Australian
7 trade unions than some
8 employers who tend to regard it as not the best and
9 they feel that here again I notice a comment by an
10 employer here who says that this back up of the
11 arbitration awards tends to impair collective
12 bargaining.

13 THE COMMISSIONER: Not one political
14 party will touch it. They criticize it and they
15 talk about it, but they don't act on it.

16 MR. SMITH: I gathered that from the
17 book itself.

18 THE COMMISSIONER: Yes, it has become a
19 part of their lives. It affects so many people.

20
21 MR. SMITH: Well, as I said, the area
22 that we are most interested in is the changes that
23 have taken place. I think both Mr. Justice Freedman
24 and Prof. Bora Laskin

25 THE COMMISSIONER: What do you understand
26 Mr. Justice Freedman to have laid down as a
27 principle of determination?

28 MR. SMITH: In principle I would say that
29 while the Commission agreed that management have
30



1 these rights today about which we have been speaking,
2 we doubt whether they should continue to have them.

3 I think it is a
4 contribution of Prof. Laskin who says that this has
5 been a much bigger change and it has been taken away
6 from employees by collective agreement that the
7 introduction of collective agreements should in
8 themselves have changed it. I notice in a judgment
9 that he just handed down recently, he reiterates
10 this. This is one of the areas of greatest concern
11 to us, at what point the common law or the law of
12 master and servant

13 THE COMMISSIONER: We got beyond the
14 law of master and servant. Here you are a body of
15 workers set up against a body of employers. For
16 whose benefit, your own and the public benefit? I
17 think you are totally disregarding the interests
18 of the public here to which both parties should pay
19 some attention. You are virtually carrying on the
20 industrialism and the economic activity of the
21 country, and you affect it in a most vital way.
22 Now, you can't do that without some sense of
23 responsibility and some action of responsibility.
24 200 years ago they attempted in England to destroy
25 improvements. You don't suggest that now here. So
26 the improvements are accepted by everybody and the
27 only question is how are we going to ease the
28 burden on those who will be seriously affected?
29 Well, there are various means suggested.
30 When a man is young, then he is fit to be retrained



1 to do something else, or he may go to another section
2 of the country and you have to have a certain mobility
3 in labour as well as in cattle. Today the government
4 of the country has laid the principles of full
5 employment down and it has gone almost completely
6 into the question of the economy including the
7 industrialism. Everybody is paying today either
8 indirectly or even directly the wages. They are
9 paying for the loss to men who are injured economically
10 by such a change. The taxpayers are vitally
11 interested in this. So you can't say that this is
12 simply a question between A and B in their employment
13 capacities.

14 MR. SMITH: I would like to think,
15 your worship, that we have no program in the labour
16 movement that is against the public. I don't know
17 how we could have.

18 THE COMMISSIONER: There is one
19 problem when you say, "We will strike". Now, at the
20 same time you are asking the government of this
21 country to establish schools and training organizations
22 for the purpose of taking up the slack of
23 unemployment. We want everybody to work which is a
24 first-class principle, but what does it incur? Have
25 you ever considered that this entails first of all
26 heavy taxation?

27 MR. SMITH: I know it has been said
28 to you many times before this Commission that
29 unemployment and the onus in an injury are far greater
30 wastages of manpower than strikes have ever been.



1 THE COMMISSIONER: Well, they are doing
2 their best to cut down illness and injury. You
3 can't lay that at the blame of any particular group.

4 MR. SMITH: And I would ^{hope} that you
5 would not attribute that all strikes can be laid to
6 the door of labour.

7 THE COMMISSIONER: No, I don't do any
8 such thing. All I am suggesting and it is only by
9 way of speculative consideration for the future, that
10 the question arises when serious consequences are
11 to flow to a body of men which I think the public realizes
12 should not be called upon to bear the whole of the
13 load. The problem is what will be better for the
14 total situation considered from the point of view of
15 a social problem? Take the mines in Cape Breton
16 which are pretty nearly at the end of their
17 existence. They are going to be closed. There are
18 45,000 people there who may be dependent upon them.
19 They look to the government to do that. Now, very
20 well, the government should have something, that is
21 the government in the sense of public action, it has
22 got to have something to say about that and I would
23 say that here is a case where you must use the
24 principle of reasonableness.

25 MR. SMITH: I couldn't agree more
26 with you, your lordship, and I don't know what the
27 problems are of those people in some of those areas.
28 There are those who go into ^{the} coal mines and speaking of
29 costs where the government is subsidizing
30 the coal so much per ton. If they gave the money



1 directly to the men who are working in that mine, it
2 would cost less I think than without taking
3 the coal out. I don't know the answers to some of
4 those things, but certainly I agree with you that
5 we all have to be concerned and we all know too that
6 in the mining industry all good things come to an
7 end. We are very cautious of that, and
8 we are getting better, but the sad thing is today
9 that the man who is within a year or two of retirement
10 when technological changes come along and he may be
11 at the very top in the plant that he is working in,
12 but with the new meters and things that come in he
13 can't read them and he hasn't got the education or
14 anything to know, what is going to change that?
15 The last two years are probably important on his
16 pension so here we have to keep working on it.

17 THE COMMISSIONER: All I suggested
18 and I think we are agreed upon the difficulties
19 in meeting a serious situation like that, all I say
20 is that it is not a proper subject for a strike. I
21 would say that if any subject ever became proper for
22 taking the opinion of a group of competent men it
23 is just such a problem as that.

24 MR. SMITH: You are speaking now about
25 the method of arbitration?

26 THE COMMISSIONER: Yes. I can quite
27 understand how in ordinary cases yes, I think I spoke
28 to the last person on the subject you must work
29 and apart from the impracticability you can't make
30 men work if they don't want to, but I would say that



1 the strike is justified in very many cases. Everybody
2 agrees with that, but here is an unusual situation
3 simply in the interests of the company generally and
4 in the interests of the working force as well as the
5 interests of the managers of these big enterprises,
6 and the question is, should that be determined on the
7 endurance uneconomically of two giants who are not
8 the public but are majority groups in the province?
9 That right is not likely to come about.

10 THE COMMISSIONER: But we agree that
11 change can be challenged. We are simply trying to
12 distribute the damage where it ought to go.

13 MR. SMITH: Well, let's take a look
14 specifically at the problem Mr. Justice Freedman
15 had on the runthrough. The point is that he said a
16 man should not have to use rules like booking off
17 sick which would put him in violation of the Criminal
18 Code and the law and the agreement and everything else.
19 Yet those men, there was just no other way. They tried
20 to get an injunction to restrain the company and the
21 Members of Parliament and the Cabinet had met on the
22 question and the only way they could succeed in gaining
23 consideration was by doing something that Mr. Justice
24 Freedman said was illegal and it should not be
25 allowed to happen again, but management if they had
26 the right should not continue to have it, and that
27 is the point that I think is most important.

28 MR. POLLOCK: Just a couple of questions
29 arising out of your brief. The first one is in
30 relation to the term you use in talking about the



1 purposes of picketing and it is the word "prevent".

2 If you turn to page 25 you will find it. You suggest
3 that:

4 "Where no attempt is made by
5 the employer to replace strikers
6 with scabs, picketing is carried
7 on for information purposes".

8 Secondly:

9 "Where the employer attempts
10 to operate his plant with scab
11 labour, picketing is for the
12 purpose of preventing others from
13 taking the strikers' jobs and
14 smashing the strike".

15 What type of prevention?

16 MR. SMITH: It is my considered
17 opinion that men will take all steps to stop other men
18 from taking their jobs.

19 MR. POLLOCK: That is permissible and
20 it ought to be the case?

21 MR. SMITH: Yes. I realize it is not
22 the law today and that is one of the problems we
23 have. But I or no one else in the trade union
24 and try as I might, could stop or prevent other men
25 from taking their jobs from using whatever means are
26 at hand. This is particularly true in mining. I
27 would be fearful of the consequences of the companies
28 trying to operate during a legal strike. Incidentally,
29 this is another thing that I mentioned to you and that
30 is Canadian arbitrators in these situations tend to



1 treat shop stewards better or different from ordinary
2 workers.

3 MR. POLLOCK: That is the same arbitorator
4 who tried that Peterborough lock case.

5 MR. SMITH: Well, I haven't been able
6 to find a case in Canada. . . . In the States I see
7 where they have accepted it. There have been times
8 when stewards went to their men on the picket line and
9 they could at least get them back to work quicker
10 than if they weren't there. However, I certain if they
11 had to they could go through the picket line. But I
12 think men will take what steps they have to stop
13 other people from taking their jobs.

14 MR. POLLOCK: You think it is inevitable
15 to come to that informational picketing and persuasion
16 of peaceful techniques may feel and they will resort
17 to other more violent and unpalatable techniques ^{that} / are
18 inevitable.

19 MR. SMITH: Yes, it is my opinion.
20 I think the circumstances bear on these things. It
21 is my opinion that there are where the men believe
22 that someone is being misled that they will be less
23 likley to stop in front of him but where professionals
24 are being used and I think the men tend to get
25 rougher.

26 MR. POLLOCK: What do you mean
27 "professionals"?

28 MR. SMITH: Where a company employs
29 professional strikebreakers.

30 MR. POLLOCK: Anyone who takes a job



1 in a plant and gets paid for it is a strikebreaker
2 and if he is getting paid for that job, then he is
3 a professional.

4 MR. SMITH: My information is that
5 I always said we don't have too much experience, but
6 my information is that there are people today and
7 certainly we knew who they were at the turn of the
8 century people who only work in strike situations,
9 they were professional strikebreakers and my
10 information is that there still are such people.
11 My information is the newspapers could not operate
12 except for professionals moving from paper to paper
13 during the previous strike and the men tend to take a
14 dim view of that.

15 MR. POLLOCK: What about the ordinary
16 case where a plant is on strike and they are attracted
17 by the wages and they offer the wages and conditions
18 to the general people in the community and they
19 accept them? "They are much greater than what I
20 am getting where I am so I will go across the street
21 and work for them". They are not professional
22 people, they are just like you and I and they want
23 to better themselves and this job happens to be a
24 better-paying job.

25 MR. SMITH: My personal opinion is
26 that, as I have stated, where the men have gone
27 through all the legal requirements to reach a point
28 of a legal strike and with the provision that I made
29 earlier on maintenance, then I think it should be
30 illegal for strikebreakers to be employed.



1 MR. POLLOCK: Well, this is the test
2 of your striking ability or the reasonableness of
3 your position vis-a-vis the company. Isn't that
4 tested by the withdrawal of your labour saying that
5 we are asking for this amount and you couldn't find
6 an experienced work force to carry on your operations
7 to replace us? Isn't that your gamble? If you are
8 asking \$10 an hour and the going rate in the
9 community is \$6, then it is suicide, isn't it? You
10 don't go on strike in those circumstances.

11 MR. SMITH: That is correct, but
12 it is the men who decide.

13 MR. POLLOCK: But they may make a bad
14 decision and they will find out that there are
15 people in that community who are prepared to work for
16 less than they are prepared to work, and are prepared
17 to carry out the same skills. Then they are stuck
18 in the situation and they feel, "Well, we are on
19 strike now, we have got to keep these people out",
20 and they can't do it by reasonable or rational
21 persuasion because the economic motivation on these
22 people to go to work is too strong and that is when
23 the violence starts.

24 MR. SMITH: That is true. I don't
25 think the men will fight with people who try to go
26 through. In my opinion they are the ones responsible.

27 THE COMMISSIONER: Of course these
28 outside men, they are just free men just the same as
29 those who are strangers. They are free and what we
30 are talking about democratic government and I am simply



1 suggesting that they are free to say that, "We want
2 to work. Here is an opportunity". Now, you come in
3 and say that you shouldn't be permitted because we
4 look upon those positions there as our own.

5 MR. SMITH: This is true, your lordship,
6 but there has been a struggle taking place between the
7 employer and his workmen, and then men come along.
8 Now, I can accept that he is free to try and get in
9 through and all I say is that the men will tend to
10 stop him. I don't think under any circumstances the
11 taxpayers' money should be used for the benefit of
12 that employer and policemen to help him get strike-
13 breakers through.

14 THE COMMISSIONER: Well, as the law now
15 is he is just exercising rights given to him by that
16 law.

17 MR. POLLOCK: It may be exercised by
18 the individual wanting to work there. He may want some
19 assistance to go in there and he is entitled to it,
20 isn't he?

21 MR. SMITH: Well, I don't know of any
22 case on that.

23 THE COMMISSIONER: What would you say
24 to this: it seems obvious that the two features
25 involved in the strike which caused the most difficulty
26 and which take away in some way or the other the
27 inhibitions of the ordinary civilized person are first
28 the picket line and secondly the employment of
29 strikebreakers. And the obvious thing to do under
30 those circumstances is where you say and I think it

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1 has been said before in the probability that it is
2 right, where you say that there will be a physical
3 clash and being human beings can stand only a certain
4 pressure of steam, why not abolish both of them?
5 Why not abolish the picket lines and abolish the
6 employment of strikebreakers?

7 MR. SMITH: I notice that Mr. Burgess
8 had difficulty answering this question and I feel
9 like he does. If there were no strikebreakers there
10 would be no picket lines.

11 MR. POLLOCK: Well, would you feel the
12 same way about the ordinary employees of the plant
13 who wanted to go back to work during the strike against
14 the wishes of the majority of the striking union?

15 MR. SMITH: Yes, I think after joining
16 our fellows they should stay with them.

17 MR. POLLOCK: They should deal with
18 the majority. They are not stealing anybody's job,
19 they are just taking their own job.

20 MR. SMITH: Well, I think if they
21 joined in the majority decision down there that they
22 should use all their means and if that is their
23 desire, use every means possible to convince their
24 fellows that they should^{not} go back to work.

25 THE COMMISSIONER: Well, you just
26 raised this question. If that union that is striking
27 has within itself the collaboration and support and
28 cohesion of the loyalty from man to man in the union
29 then there would be nothing like that. Now, let me
30 finish, please. I am assuming that you have a

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1 collaboration there that would hold those men on
2 strike. Therefore, the plant stops except for those
3 who haven't entered the strike with the union. But
4 that is your problem. It is your problem to get that
5 cohesion and the men would go close the doors.

6 MR. SMITH: That is true and we will
7 have to accept it.

8 THE COMMISSIONER: Then you can't call
9 upon government or law to assist you in that. That
10 is yours exclusively and your private obligations
11 to persuade these men that it is against their
12 interests ultimately and that they would be guilty of
13 a breach of good faith and that they must hold together.
14 Now, that is your job, isn't it?

15 MR. SMITH: That is right, and you
16 know, as we have said, that we think there should be
17 less restrictions and we should be less dependent
18 on the law.

19 THE COMMISSIONER: Yes, that is what you
20 said. So if you maintain that solidarity you are
21 all right.

22 MR. POLLOCK: As a matter of fact, in
23 the mining industry that is not an uncommon occurrence
24 for production people to come out and then the mine
25 quits and it just doesn't operate. They shift some
26 of the stuff and there is no objection to that, is
27 there?

28 MR. SMITH: Well, I would say there is
29 no objection, but we run into a problem and it hasn't
30 been a problem in the last year because management

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1 and labour generally sit down and agree to disagree
2 and they know that they have a strike and there isn't
3 much to shut that day.

4 THE COMMISSIONER: You see that
5 suggestion I made to you has no application in large-
6 scale employment. The plant stops anyway if you have
7 your men with you.

8 MR. SMITH: That is right.

9 THE COMMISSIONER: So it could only
10 arise in small groups and if you have any thoughts
11 on that that come by virtue of reflection I would
12 like to have them.

13 MR. SMITH: I don't know whether they
14 are too helpful. I only say that the men will take
15 whatever action they can take and there I know there
16 is a problem.

17 THE COMMISSIONER: Well, I am assuming
18 now that we are seriously considering and we have got
19 to speculate should we do away with these two features
20 which are objectionable and we leave the doors open.
21 If employees want to go back to their places they may,
22 and if they hold together they won't and the rest of
23 it is silent. Is there any objection to that from
24 the point of view of labour, or do you want to

25 consider the other point of view, that of
26 management? You might think that over.

27 MR. SMITH: I will think that over.

28 MR. POLLOCK: Mr. Hall, do you have
29 anything to add?

30 MR. HALL: No, thank you.



1 MR. POLLOCK: We now have the presentation
2 of Mr. John Codd. Mr. Codd, you are appearing as an
3 individual today?

4 MR. CODD: Yes, that is correct. My
5 name is John Codd and I am a rank and file member
6 of the International Union of Mine, Mill and Smelter
7 Workers and I work at INCO. It is a privilege being
8 here and I have listened with the greatest interest
9 to your deliberations here, and of particular
10 interest to me was the reference to arbitration and
11 most particularly, Mr. Justice Rand's reference to
12 the arbitration system in Australia. Now, the
13 arbitration system in Australia has been condemned
14 by practically every union I could think of. The
15 Federation of Miners of Australia, the United Mine
16 Workers, the Australian Federation of Labour, and
17 you have finally in your possession here a book from
18 the Australian Union of Engineers. Now, I for my
19 part would not like to accept any part of an
20 arbitration system which has been rejected in another
21 country, and I am most interested in fact from
22 newspaper accounts and I am most interested to know
23 why Mr. Justice Rand went to Australia to study an
24 arbitration system which has been rejected by the
25 workers.

26 THE COMMISSIONER: It is not so that
27 it is rejected. You are simply not stating the facts,
28 because there are very many criticisms of individual
29 features, but in the mines in the late forties there
30 was a very serious strike and the labour government was



1 in power and the labour government supported that
2 labour situation as determined by the arbitration
3 boards to the limit, and the strike was broken by the
4 Labour Party.

5 MR. CODD: This is so and that was
6 quite a number of years ago, but we find that in
7 today's reading of any news publications published
8 by any of the Australian agents what they say is
9 that the Arbitration Board of Australia is only prepared
10 to grant to them the things that they aren't ready
11 to fight for.

12 THE COMMISSIONER: In the first place
13 the system down there doesn't fix the maximum rates
14 at all. It fixes the minimum rates and above that
15 they are free for voluntary negotiations or collective
16 bargaining or anything you want to speak about.
17 They carry that on above these minimum rates.

18 MR. CODD: This is very nice, but the
19 point still remains from my point of view and I am
20 sure it is the point of view which will be shared by
21 every worker here of whichever organization he belongs
22 to that I don't want an arbitration system which the
23 Australians don't want and all of the unions have
24 protested it.

25 MR. POLLOCK: All I could say is that
26 that is not the case in Australia. We visited and
27 talked to almost every labour organization in the
28 whole country and they have never, ever made that
29 statement that you just made now.

30 MR. CODD: Some of them were witnesses
here today and have been able to talk with Mr.



1 Parkinson, for example. And you have the whole book
2 which you can read in your leisure. I am sure
3 there are the same ideas expressed. This is the
4 Engineering Union. So in fact all the unions

5 MR. POLLOCK: This Amalgamated
6 Engineering Union, is that the one that is affiliated
7 in England --- there are two engineering unions and
8 one of them has no membership support any more.

9 MR. CODD: Well, that is not this one.

10 THE COMMISSIONER: Now, they criticize
11 ~~it~~ but they don't intend to change it. And you know
12 they have a very strong political party.

13 MR. CODD: They have in fact talked
14 about abolishing it.

15 MR. POLLOCK: They tried it once and
16 the government was defeated and it wasn't the labour
17 government, it was a conservative or liberal government.
18 They were defeated by labour people.

19 MR. CODD: That is so. I think the
20 workers in many places apart from Australia are being
21 defeated by a labour government, but that doesn't
22 necessarily make anything better or worse or more
23 acceptable or less acceptable. My feeling on this
24 is that I don't want to accept something for my job
25 which the Australian workers don't want to accept.
26 This is the point I wanted to make clear and I thank
27 you very much, sir. It was very nice of you to
28 listen to me.

29 MR. POLLOCK: This meeting is adjourned
30 until ten o'clock tomorrow morning. Adjournment-----

BINDING SECT. OCT 20 1967

